October 27, 1950

Honorable Joseph M. Darst
Mayor of Saint Louis
Saint Louis, Missouri.

Dear Mayor:

Your letter of October 18, 1950, referring to the incident of October 8 involving Mr. and Mrs. Walter Gordon, is very much appreciated.

The Gordons are fine people whom I have known for many years, and Mr. Gordon has proved himself a valuable and enlightened public servant. His attainments in the field of penology have been widely recognized, not only in California but elsewhere in the nation. Consequently I read with regret of the unfortunate occurrence in Saint Louis.

I appreciate receiving your cordial letter and understand your own position. I am glad to know of the efforts of the City of Saint Louis, under your leadership, to overcome un-American prejudices, and wish you and your Council on Human Relations every success.

With kind regards,

Sincerely,

Governor.

EW:mg
JHO

RECEIVED
GOVERNOR'S OFFICE
1950 OCT 20 PM 1 47

OFFICE OF THE MAYOR
CITY OF SAINT LOUIS
MISSOURI

JOSEPH M. DARST
MAYOR

October 18, 1950

Hon. Earl Warren
Governor of the State of California
Sacramento, California

My dear Governor Warren:

I wish to express my sincere regrets for an incident that arose last Sunday, October 8, at the Statler Hotel in this City, when through some misunderstanding on the part of the American Prison Association your delegate, Mr. Walter Gordon, and his wife, were not accorded accommodations at that hostelry. I immediately notified my Commissioner and Executive Secretary of the Saint Louis Council on Human Relations to investigate the matter and submit a complete report to my office. They reported at length concerning the matter and it is apparent that the Association, through its Executive Secretary as well as the Local Arrangements Committee, were remiss in advising all organizations and agencies connected with the Congress on Correction that a stated policy of the local Hotel Association provided all privileges of attending sessions, use of private dining rooms, etc., but that hotel accommodations as such, rooming, was not permissible to Negro delegates.

The City of Saint Louis, through my offices, has established officially by ordinance a Mayor's Council on Human Relations in order to combat and overcome un-American prejudices and to make for a more harmonious local democracy. Steeped as we are in tradition, hopeful signs are already apparent in our campaign.

Please accept our apologies, and we sincerely trust that no further occurrences of such embarassments will ever again be experienced.

Sincerely yours,

Jos. M. Darst.

Mayor.

Mr. Welsh and Mr. Oakley

November 14, 1950

Miss MacGregor

cc: Mrs. Anderson

Walter Gordon phoned in behalf of the Adult Authority to express their sympathy to Mina and all the family and best wishes for her complete recovery. They also send to the Governor their heartiest congratulations on the election.

He wanted the Governor to know that the Adult Authority has voted to grant a parole to Pete Pianezzi, who murdered Bruneman in Los Angeles. He said that the case was submitted to them first on Executive Clemency which was recommended against. Because of the person who was killed, Mr. Gordon anticipates that there will be considerable publicity about Pianezzi's release. I suggested that the Adult Authority send a memo to the Governor stating the reasons for granting the parole. Mr. Gordon agreed to do this and also agreed that the parole would not be either announced or commenced until the Governor has had the chance to read the memo.

HRM:pd

State of California
GOVERNOR'S OFFICE
SACRAMENTO 14

EARL WARREN
GOVERNOR

October 30, 1947

California has never had the benefit of a thorough statewide inventory of its crime situation and of our actual and potential resources for dealing with it.

The great expansion of our population, together with the readjustments of the postwar era, make this a most appropriate time to give this urgent matter our careful attention.

There exists ample evidence, both local and nationwide, that the problem of crime has become increasingly intensified during the past two years. This was anticipated and the 1947 Legislature was requested by me to provide for the appointment of special commissions to study the situation in California. This the Legislature did and, accordingly, I am appointing five special commissions of five members each. These include:

The Commission on the Criminal Procedures
The Commission on Juvenile Justice
The Commission on Adult Corrections and Release Procedures
The Commission on the Social and Economic Causes of Crime and Delinquency
The Commission on Organized Crime

In order to insure an auspicious and effective launching of the important work of these commissions, and to secure the help and guidance of law enforcement officers and community leaders, I am calling a conference in Sacramento on November 17 and 18, 1947.

I am very pleased to enclose a formal invitation to attend and to give us the benefit of your counsel and experience.

The conference, in broad outline, will consist of a general session on the morning of November 17, which will be open to the public as well as to invited guests. The general session will be followed by two half days of discussions divided into five panel meetings to be directed by the Chairmen and Members of the five commissions.

Admission to the panel will be by invitation only, in order to insure effective and productive deliberations. Hence, PLEASE BRING THE ENCLOSED INVITATION WITH YOU and, by completing and returning the attached form, give us advance notice of the Commission meeting you particularly wish to attend.

The final half-day session, on November 18, will be devoted to a general meeting for the purpose of summarizing and relating the results of the panel discussions.

The entire purpose of this Conference is to afford the Commissions and myself an opportunity to have the benefit of your guidance and advice and to assist law enforcement in strengthening the quality of its work to the end that together we may guarantee the safety and protection of our homes and community life. Certainly the success both of the Conference and of the work of the Commissions will depend entirely upon the cooperation of our law enforcement and community leaders.

It is my earnest hope, therefore, that you will find it possible to be with us on November 17 and 18.

With best wishes, I am

Sincerely,

Governor

EW:pz
Enclosures

MEMBERS OF CRIME COMMISSIONS

COMMISSION ON JUVENILE JUSTICE

Charles DeYoung Elkus
Attorney at Law
300 Montgomery Street
San Francisco, California

Mrs. Carmen J. Boyle
1500 Circle Drive
Pasadena, California

Captain Robert Bowling
Juvenile Division
Georgia Street Police Station
Los Angeles, California

Robert J. Ball
19 W Arrellega Street
Santa Barbara, California

Dr. Walter Hepner
President, State College
San Diego, California

COMMISSION ON CRIMINAL PROCEDURES

Judge Isaac Pacht
9700 Wilshire Boulevard
Beverly Hills, California

William Neeley
Public Defender
Los Angeles County
Hall of Justice
Los Angeles 12, California

Miss Cecil Mosbacher
Assistant District Attorney
Alameda County Court House
Oakland, California

Max Willens
Willens & Boscoe
Suite 1016 Bank of America Bldg.
Stockton, California

C. B. Horrall
Chief of Police
City of Los Angeles
Los Angeles, California

COMMISSION ON SOCIAL & ECONOMIC CAUSES OF CRIME & DELINQUENCY

Dr. Arlien Johnson
Graduate School of Social Work
University of Southern California
Los Angeles, California

Charles W. Real
Teamsters' Union
826 West Street
Oakland, 7, California

Dr. Knowles A. Ryerson, Dean
School of Agriculture
Davis, California

COMMISSION ON SOCIAL & ECONOMIC CAUSES OF CRIME & DELINQUENCY

Walter L. Treadway, M. D.
1259 No. Jameson Lane
Santa Babara, California

Floyd Covington, Executive Dir.
Los Angeles Urban League
2510 So. Central Avenue
Suite 301-311
Los Angeles 11, California

COMMISSION ON ADULT CORRECTIONS & RELEASE PROCEDURES

John Loustalot, Sheriff
Kern County
Bakersfield, California

Burdette Daniels
Attorney at Law
Arcade Building
711 Spring Street
Los Angeles, California

John M. Zuck
Probation Officer
Los Angeles County
139 No. Broadway
Los Angeles 12, California

Milton Chernin, Dean
School of Social Welfare
University of California
Berkeley, California

Mrs. Sumner Spaulding
1454 San Ysidro Drive
Beverly Hills, California

COMMISSION ON ORGANIZED CRIME

Harvey S. Mudd
Pacific Alkali Company
523 West 6th Street
Los Angeles, California

Wm. M. Jeffers
422 West 6th Street
Los Angeles, California

Adm. Wm. H. Standley
8900 Mariposa Avenue, La Mesa
San Diego, California

Gen. Kenyon A. Joyce
1000 Mason Street
San Francisco, California

Gerald H. Hagar
Attorney at Law
1421 Central Bank Building
Oakland, California

Crime Comm. File

STATE OF CALIFORNIA
Sacramento 14

RECEIVED
GOVERNOR'S OFF
NOV 6 AM

Inter-Departmental Communication

To: Mr. Verne Scoggins
Press Secretary to the Governor
State Capitol
Sacramento, California

File No.

Date: November 5, 1947

Subject: Executive Orders,
Special Crime Study Commissions

From: **Department of Corrections**

For your guidance and information, I am pleased to attach hereto a copy of each of the Executive Orders signed by the Governor, establishing the five special crime study commissions.

For your further information, please note that I am sending copies to Mr. Sam Leedom.

Frank Cane.

Frank E. Cane
Executive Officer
State Board of Corrections

encs. 5

COPY

Earl Warren
Governor
State of California
Capitol Building
Sacramento, California

Dear Sir:

The undersigned, citizens of Tracy, California, having been unable to obtain any action by the District Attorney of San Joaquin County and the State Attorney General Office in regard to vice, gambling, prostitution, narcotic traffic, derelection of duty by the City Police Dept. and fraudulent voting, are writing this letter to ask you to look into these conditions in the City of Tracy and have some action taken by the State against those responsible.

The matters we are requesting you to investigate include the following:

1. Open and notorious gambling and prostitution carried on with the knowledge of the Police Dept., the Chief of Police and other city officials, and which Police Dept. has taken no steps to abate or interfere with.

2. Juvenile drinking and marijuana traffic known to the Police Dept. and with respect to which said Dept. has refused to take action.

3. Police brutality.

4. Shakedown of at least one prisoner by the Chief of Police.

5. Fraudulent voting and possible forgery of voting records.

The situation as to prostitution is as follows:

For a number of years two notorious houses of prostitution have been operating in Tracy: Jeanette's, located at 121 West Third Street, and Hazel's, located at 108 East Third Street. In the latter part of 1947, a negro house opened at 150½ West Fourth Street, operated by a negress, Jean Valking. The negro house distributed cards to high school students. Some of these cards were picked up by the police officials and reported to the Chief of Police, E. C. Wyman. Some of the private citizens of Tracy also went in to see the Chief of Police about these cards. He took no action to either investigate, close down or in any way interfere with this house. These conditions as to prostitution were well known to citizens of the town generally and to city officials. Insurance on one of the houses, Jeanette's, was written by Mayor William Larson. The fact that these three houses were operated was reported to the Police Chief on numerous occasions by police officers and private citizens, including some whose names are signed to this letter. Chief Wyman took no action and advised officers making such reports to look the other way or go around the corner.

No action was taken with regard to prostituion by any officials until early this year when one raid was made by the Sheriff and District Attorney's offices of San Joaquin County. At the time of this raid Jean Valking's house was closed for the first time since it started operating, with the result no evidence was obtained or action taken based on operations there. Subsequently, abatement proceedings against Jeanette's and Hazel's were begun by the District Attorney's office and an abatement decree obtained. However, the number of "callers" visiting these houses today indicates that they are still perating, even in the face of the decree. Jean Valking's house on West Fourth Street does appear to be closed down.

However, despite the abatement decree, the Tracy Police Dept. still is doing nothing to interfere with the operation of the two older houses.

Gambling in form of slot machine, punch board and card room activities has been openly conducted for a number of years. No effort has been made to conceal these activities from the Police. When police officers have reported this to Chief Wyman, his reply has been "just leave well enough alone."

This situation cleared up a good deal for a short while this year, but in regard to pay-offs on slot machines and gambling and card rooms, it is now almost as bad as it was, and punch boards are begin ing to make their appearance again. The improvement was not due to any action taken by the police against any of the places where this activity was carried on. It followed the appearance of public criticism of Police Dept. operations, public demands made upon the Police Dept. to clean up the town, and requests that the District Attorney investigate the police dept. and gambling, and other conditions in the city.

There have been a number of reports freely circulated in town that bookmaking operations were carried on at the Western Hotel operated by Billy Gift. In December, 1948, Officer J. B. Firestone was assigned to investigate these reports of bookmaking. He was assigned to this investigation during the absence of Chief Wyaman from Tracy by Police Captain Andrew Hasten. Officer Firestone began his investigation. A few days later, Chief Wyaman returned to Tracy, and very shortly afte this, Billy Gift came to see Chief Wyaman in ~~thix~~ his office. They were closeted together for some time. Immediately after Billy Gift left, Chief Wyaman bawled out Officer Firestone for messing around with bookmaking. Chief Wyman told Firestone not to mess into things until he had the proof to back it up in court. About a week later J. B. Firestone was dismissed from the Police Dept. Despite a public demand at a city council meeting for an explanation of Officer Firestone's dismissal, the only reason given was "for the good of the department." At this same council meeting, two other officers, Jesse O. Firestone and Tol P. Gover, resigned in protest against conditions within the department and the failure and refusal of Chief Wyman to make any effort to clear up matters mentioned in this letter.

Another matter upon which Chief Wyman has willfully closed his eyes is that of juvenile drinking. On a number of occasions police officers have picked up minors who have been drinking and have located the persons who sold them liquor. Wyman has constantly refused to take any action or authorize any officer to take action against either the minor or the adult who furnished the liquor.

Several reports have been made to the police and to Chief Wyman of marijuana smoking by minors. Chief Wyman has made no effort to locate the source of the marijuana or stop the traffic in marijuana. He has not even attempted to talk to the minors reportedly using the drug, even though, on at least one occasion, a man reported marijuana smoking by his own daughter and requested that some action be taken.

On at least two occasions police officers have been beaten prisoners without provocation. In both instances the matter was reported to Chief Wyman and he took no action with respect to it. One of the occurrences was in November of 1948 when one Virgil Lund was arrested on charges of drunkeness and resisting arrest. After he was taken to the station, and without any reason, Officer Heidelback beat the prisoner to such an extent that he could not be taken to court the next day. On another occasion Police Sergeant Wilburn Hamby beat a negro, J. B. Muldrow, of Altmont. Officers J. B. Firestone andTol Gover brought Muldrow into the station on charges of vagrancy and suspicion of carrying a concealed weapon. Hamby, without any provocation, backed Muldrow up against the wall, hit him, knocked him down. When the man urinated on the floor, Hamby rubbed Muldrow's face in the urine on the floor, and then wiped up the urine with Muldrow's coat. This incident was reported to Chief Wyman by Police Judge F. L. Jackson, the prisoner, and J. B. Firestone.

At the last city council election, April 13, 1948, City Councilman and Police Commissioner Tom Eagan, threatened J. B. Firestone, Jesse Firestone and Tol Gover with loss of their jobs unless they voted for him. Eagan followed J. B. Firestone into the voting booth and stood behind him while he voted. On April 10th, the Saturday before election, Mrs. Pearl Firestone, Mrs. Dorothy Firestone, and Mrs. Theda McMillan received word of the death of a relative in Tennessee and made plans to leave Tracy immediately for the funeral. Eagan, learning of this, ordered Police Officer J. B. Firestone to have them vote before they left. Eagan had the City Clerk, Charles DeFreitas, meet them at the city hall and open the polls so they could vote. Mr. DeFreitas watched them stamp their ballots. This was at 10:00 P.M. in the evening, three days before election, and after the time to apply for absentee ballots had already expired. None of the three recall signing any application for absentee ballots or anything other than regular voter's rolls. However, DeFreitas has since stated that they applied for absentee ballots and voted absentee ballots at this time. It has been reported that signatures purporting to be those of Pearl Firestone and Theda McMillan now do appear on absentee ballots applications.

On at least one occasion Police Chief Wyman received $100.00 from a woman prisoner and then let her go. This was on December 27, 1947, (Case No. 15992, Tracy Police Records). Officers J. B. Firestone and Tol Gover arrested Thelma Ganet of Fresno for drunkeness and took her to the station. Mr. Firestone called Chief Syman out of bed as the jail has no matron and the woman was creating a disturbance screaming "rape". The woman had considerable jewelry and money, including a $500.00 bill. Chief Wyman made change for the $500.00 bill, paid off the San Francisco limousine driver that had brought her to town with this. She left a $100.00 bill with him. The woman was not locked up but Wyman called a local cab to take her to the Tracy Inn. Before a city council meeing last January Wyman stated that he still had this money.

A public protest about t ese matters was presented to the City Council last January, together with the demand something be done to clean up the situation and to remedy the Chief of Police's willful failure to take any action. When this accomplished nothing, an appeal was made to the District Attorney of San Joaquin County to investigate conditions. Several of the undersigned conferred with the District Attorney and his assistant on several different occasions and were promised that investigators would be sent to Tracy to see if any evidence sufficient to take the matter before the Grand Jury could be found. The undersigned all volunteered to help these investigators, and the District Attorney officials promised that the investiators would get in touch with the undersigned to secure leads as to witnesses who could help them. Thereafter a man claiming to be from the District Attorney's office did get in touch with several of the undersigned and asked them to lay off their protest for a while and told them that Chief Wyman was just misunderstood; that he was trying to do a good job.

Despairing of an adequate investigation by the District Attorney, the undersigned presented these matters to the County Grand Jury, together with lists of witnesses to be called who could testify as to these matters. Prior to the Grand Jury hearing, these lists of witnesses were turned over to Chief Wyman. At least one of these witnesses was contacted by Chief Wyman who gave her instructions as to what her testimony should be. We suspect that this same thing happened with several other witnesses. Wyman was informed ahead of time of all the charges to be investigated and was given subpoenas to bring in all the witnesses he desired on these charges. The Grand Jury refused to subpoena a number of the witnesses requested by the undersigned. Prior to the Grand Jury hearing the undersigned had lost faith in the District Attorney because of his failure to conduct any investigation worthy of the name and therefore requested that a special prosecutor be appointed to present the evidence on these matters to the Grand Jury. This was refused.

The Grand Jury refused to return any indictments in the matter, although it did mildy critize the laxness of law enforcement in Tracy.

Because of the failure of the city and County officials to take any steps to clear up the above matters, the undersigned are requsting you to have the state to investigate and to prosecute those responsible for the uncontrolled vice in the City of Tracy.

The Attorney General's office has been appealed to concerning these matters but as yet no action has been taken.

Yours very truly,

/s/ Jesse O. Firestone

/s/ J. B. Firestone

/s/ Tol P. Gover

Crime Comm

Los Angeles
Urban League
2510 South Central Avenue Suite 301-311
Los Angeles 11, California
Telephone ADams 5128

RECEIVED
GOVERNOR'S OFFICE
1950 JAN 6 AM 9 14

January 3, 1950

26R129

Board of Directors
Bernard S. Jefferson
President
Russell S. Brown
1st Vice President
Kermit A. Brown
2nd Vice President
George A. Beavers, Jr.
Treasurer
Mrs. Clarissa L. Matthews
Secretary
Mrs. Clinton M. Barr
Otto E. Buss
Frank F. Chuman
Joseph S. Dunning
A. P. Durousseau
Bonar Dyer
Wilbert D. Fisher
James A. Gray
Mrs. Cora Hilton
Lou Mandelbaum
Howard O. Mayer
I. H. McClelland
Mrs. Elizabeth Roney
Herbert Tobin
Herbert C. Ward
Mrs. Bess M. Wilson

Floyd C. Covington
Executive Director

Services
Research - Public Information
Industrial Relations
Vocational Guidance
Community Planning

Member
Los Angeles Community Chest
"A Red Feather Agency"

Affiliated with
The National Urban League

The Honorable Earl Warren
Governor of California
Sacramento, California

Dear Governor Warren:

Your letter of November 25th expressing your appreciation to me on my work with the Special Crime Study Commission was received.

May I assure you that this experience was one of the most educational and profitable that I have ever had. I am, therefore, in great debt to you and the members of the Commission for having been privileged to share in this important experience.

I want to thank you for inviting me to participate in your recent Conference on Employment. If an optimum number of the recommendations submitted can be fulfilled, I am sure that we will make great strides in improving the employment relations of all cities in our State. If at any time in the future I can be of additional service, please feel free to call upon me.

I hope you and your family had a very pleasant Holiday Season.

Cordially yours,

Floyd C. Covington

Floyd C. Covington
Executive Director

FCC:asa

Symbol of... Community Service

The Local Program . . .

Interracial co-operation in action is the Urban League's basic method of securing its objective. It works in the following fields:

Research and Public Information . . . supplying facts about Negro living and working conditions so these facts can be used as a base for further improvement.

Industry and Business . . . striving to "remove the racial factor from employment" by educating business and industrial management and employment agencies to expand job opportunities for Negroes, and to provide employers with information and advice leading to the solving of any problems which might arise from employment of Negroes.

Labor Unions . . . assisting responsible labor leaders in developing effective workers' educational programs, and in advancing fair and just policies and practices regarding the admission and participation of Negro workers in unions.

Vocational Guidance . . . encouraging youth and adults to prepare and train for jobs.

Community Planning . . . working with public and private agencies and developing neighborhood programs to alleviate problems that arise in the fields of health, housing, education and recreation.

November 1, 1947

Executive Order of the Governor

(Pursuant to Chapter 1181, Section 6028, Statute Laws of 1947)

By virtue of the authority vested in me by Chapter 1181 of the Statute Laws of 1947, I hereby create a special Commission of five members, to be known as "The Special Crime Study Commission on Juvenile Justice," to assist the Board of Corrections in the study of crime pursuant to Section 6027 of the Penal Code.

Said Commission is authorized and instructed to study, evaluate, and make recommendations respecting all matters having a direct bearing upon the prevention of juvenile delinquency and the protection of the welfare of children together with the general problem of dealing with juvenile offenders against the law, including their apprehension, detention, prosecution, treatment, and rehabilitation.

The scope of these inquiries shall include, but shall not be limited to: (a) A careful examination of the Juvenile Court Law and of other laws, State and local, related to the problem of dealing with juvenile offenders against the law, together with laws established for the protection of juveniles and, in particular, laws dealing with adults who contribute to the delinquency of juveniles. (b) Studies of the organization, administration, functions, policies, and practices of the California Youth Authority; the Juvenile Court, County agencies responsible for the administration of juvenile probation, parole, and placement; juvenile detention homes; County probation committees; local and State public correctional institutions for juveniles, including forestry camps, police juvenile bureaus; and the qualifications and training of police officers dealing with juveniles on a full- or part-time basis.

It is further suggested that the Commission inquire into the general field of causes of delinquency and prevention techniques and practices including the study of programs for the coordination of public and private community forces for the correction and prevention of delinquency.

In making these studies, the Commission is instructed to make use of such advice and consulation as the Committee of the Judicial Council for the Study of Juvenile Court Law and the California State Bar may elect to make available to it.

Said Commission is authorized to make partial and interim reports on such subjects within the general scope of its study and at such times as are deemed appropriate by said Commission.

Said Commission shall render its final report and recommendations to the Director of Corrections not later than July 1, 1949, and in the manner provided by Section 6028.3 of the Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1st day of November, A. D. Nineteen Hundred and Forty-seven.

/s/ Earl Warren
Governor of California

ATTEST: /s/ Frank M. Jordan
Secretary of State

Repd "1947-Crime Corrections Conference",
Crime Comm

THE

GOVERNOR'S CONFERENCE

ON

Crime and Juvenile Justice

INTRODUCING THE COMMISSIONS
FOR THE STUDY OF

CRIMINAL LAW AND PROCEDURES

ADULT CORRECTIONS AND RELEASE PROCEDURES

JUVENILE JUSTICE

SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY

ORGANIZED CRIME

SACRAMENTO, CALIFORNIA
NOVEMBER 17 AND 18, 1947

81323 11-47 2500 SPO

THE SPECIAL CRIME STUDY COMMISSIONS

Criminal Law and Procedures

Mr. C. B. Horrall
Miss Cecil Mosbacher
Judge Isaac Pacht
Mr. Max Willens
Mr. William Neeley

Adult Corrections and Release Procedures

Mr. Milton Chernin
Mr. Burdette Daniels
Mr. John Zuck
Mr. John Loustalot
Mrs. Sumner Spaulding

Juvenile Justice

Mr. Robert J. Ball
Capt. Robert Bowling
Mrs. Carmen J. Boyle
Mr. Charles DeYoung Elkus
Dr. Walter Hepner

Social and Economic Causes of Crime and Delinquency

Mr. Floyd Covington
Dr. Arlien Johnson
Mr. Charles W. Real
Dr. Knowles A. Ryerson
Walter L. Treadway, M.D.

Organized Crime

Mr. Gerald H. Hagar
Mr. Wm. M. Jeffers
Gen. Kenyon A. Joyce
Mr. Harvey S. Mudd
Adm. Wm. H. Standley

Program

MONDAY, NOVEMBER 17, 1947

Morning Sessions

9:00 A.M.—REGISTRATION

Foyer, Auditorium, Third Floor, Masonic Temple
12th and J Streets

10:00 A.M.—OPENING SESSION

Auditorium, Third Floor, Masonic Temple

Presiding: Mr. Richard A. McGee
General Chairman of the Conference
Chairman, State Board of Corrections
Director, State Department of Corrections

The National Anthem
Leader: Mr. Clifford A. Mott, Sr., Sacramento
Organist: Mrs. Charles Harmon, Sacramento

Invocation: The Reverend George Harrison
Pastor, Elmhurst Methodist Church, Sacramento

Address: The Honorable Earl Warren
Governor of California

Response: The Honorable H. P. Gleason
President, California Peace Officers' Association
Sheriff of Alameda County

The Honorable Eugene W. Biscailuz
Sheriff of Los Angeles County
Past President, California Sheriffs' Association
representing the Honorable Robert W. Ware, President

Mrs. Rollin Brown
Member, California Youth Committee

The Honorable Leslie A. Cleary
President, District Attorneys' Association of California
District Attorney of Stanislaus County

Introduction of Members of the Commissions:

The Honorable Earl Warren
Governor of California

12:15 P.M.—LUNCHEON

Mirror Room, Elks Club, 11th and J Streets

Presiding: Mr. Richard A. McGee
General Chairman of the Conference

Invocation: Rabbi Irving I. Hausman
Temple B'Nai Israel, Sacramento

Address: The Honorable Fred N. Howser
Attorney General of California

Afternoon Sessions

2:00-5:30 P.M.

Meetings of the Commissions

(Limited to Invited Members of the Conference)

1. The Commission for the Study of Criminal Law and Procedures
   Second Mezzanine, Masonic Temple
2. The Commission for the Study of Adult Corrections and Release Procedures
   Second Floor, Masonic Temple
3. The Commission for the Study of Juvenile Justice
   Second Floor, Masonic Temple
4. The Commission for the Study of Social and Economic Causes of Crime and Delinquency
   Second Floor, Masonic Temple
5. The Commission for the Study of Organized Crime
   Second Floor, Masonic Temple

NOTE

No Evening Sessions Scheduled

November 17, 1947

TUESDAY, NOVEMBER 18, 1947

Morning Sessions

9:00-11:00 A.M.

Meetings of the Commissions

(Limited to Invited Members of the Conference)

Masonic Temple. Same Locations as on Preceding Day

11:10-11:50 A.M.

The Auditorium, Masonic Temple

Presiding: The Honorable Ralph Hoyt
Judge of the Superior Court, Alameda County

Address: Mr. Charles W. Dullea
President, The International Association of Chiefs of Police

12:15 P.M.—LUNCHEON

Mirror Room, Elks Club, 11th and J Streets

Presiding: The Honorable Earl Warren
Governor of California

Invocation: The Right Reverend Monsignor Thomas A. Kirby
Cathedral of the Blessed Sacrament, Sacramento

Address: The Honorable Phil S. Gibson
Chief Justice, Supreme Court of California

Afternoon Sessions

2:15-3:00 P.M.

Auditorium, Masonic Temple

Presiding: Dr. Robert A. McKibben
Chairman, California Youth Committee

Address: The Honorable Frank M. Ogden
Judge of the Superior Court of Alameda County
Member, California Youth Committee
Member, Committee of the Judicial Council for the Study of the Juvenile Court Law

3:00-4:00 P.M.

Auditorium, Masonic Temple

Summaries of Commission Meetings

Presiding: Mr. Richard A. McGee
General Chairman of the Conference
Chairman, State Board of Corrections

Summary of Meetings of the Commission on Criminal Procedures
The Honorable Isaac Pacht, President, The State Board of Prison Directors

Summary of Meetings of the Commission on Adult Corrections
Mr. Walter Gordon, Vice Chairman, State Board of Corrections
Chairman, California Adult Authority

Summary of Meetings of the Commission on Juvenile Justice
Mr. Karl Holton, Director, California Youth Authority

Summary of Meetings of the Commission on Social and Economic Causes of Crime and Delinquency
Mr. Ervis Lester, Member, California Adult Authority

Summary of Meetings of the Commission on Organized Crime
Mr. Charles W. Dullea, Member, California Adult Authority

4:00-4:30 P.M.

Auditorium, Masonic Temple

Closing Session

Presiding: The Honorable Goodwin J. Knight
Lieutenant Governor of California

Address: The Honorable Earl Warren
Governor of California

THE STATE BOARD OF CORRECTIONS

MR. RICHARD A. McGEE, *Chairman*
Director, State Department of Corrections

MR. WALTER A. GORDON, *Vice Chairman*
Chairman, Adult Authority

Miss Grace E. Barneberg
Chairman, Board of Trustees for the California Institution for Women

Mr. O. H. Close
Member, Youth Authority

Mr. Henry B. Cramer
Member, State Board of Prison Directors

Mr. Charles W. Dullea
Member, Adult Authority

Mr. Karl Holton
Director, Youth Authority

Mr. Gerald C. Kepple
Member, Youth Authority

Mr. Ervis W. Lester
Member, Adult Authority

Judge Isaac Pacht
President, State Board of Prison Directors

Mrs. Edna C. Plummer
Member, Board of Trustees for the California Institution for Women

---

PENAL CODE
(Chapter 1181)

SECTION 6028. Upon request of the Board of Corrections or upon his own initiative, the Governor from time to time may create by executive order one or more special commissions to assist the Board of Corrections in the study of crime—pursuant to Section 6027 . . . "

Crime Commission Office
File Copy

F 2640 .A53

State of California

Final Report

of

The Special Crime Study Commission

on

Criminal Law and Procedure

SACRAMENTO, CALIFORNIA

June 30, 1949

State of California

Final Report

of

The Special Crime Study Commission

on

Criminal Law and Procedure

SACRAMENTO, CALIFORNIA

June 30, 1949

CONTENTS

	Page
Letter of Transmittal—Richard A. McGee, Chairman, State Board of Corrections	4
Letter of Transmittal—Isaac Pacht, Chairman, Commission for the Study of Criminal Law and Procedure	6
Introduction	7
PART I	11
Recommendations Contained in the Commission's Second Progress Report and Incorporated in Proposed Legislation Presented to the 1949 Legislature	13
PART II	39
Recommendations for Proposed Changes in Criminal Procedures in Inferior and Superior Courts as Presented to the 1949 Legislature in Assembly Bill 2599	41
PART III	87
Matters Concerning Which the Commission Recommends Future Study, Investigation and Legislation	89
A. General Subjects for Legislation	90
B. Specific Statutory Amendments	95
C. Matters Proposed for Further Investigation and Study	104
Matters Concerning Which the Commission Members Have Filed Majority and Minority Reports	113
Appendix	125
Executive Order of Governor Establishing Commission	125
The Members of the Commission on Criminal Law and Procedure	126
The State Board of Corrections	126
Liaison Representatives to the Special Crime Study Commissions	126
Calendar of Commission Meetings	127
Staff—The Special Crime Study Commissions	127

LETTER OF TRANSMITTAL

Final Report of the Commission for the Study of
Criminal Law and Procedure

EARL WARREN, *Governor* RICHARD A. MCGEE, *Chairman*

The State Board of Corrections

June 30, 1949

The Honorable Earl Warren
Governor of California

The Honorable Goodwin J. Knight
President of the Senate

The Honorable Sam L. Collins
Speaker of the Assembly

Pursuant to the provisions of Section 6028.3 of the Penal Code, enacted by the Legislature in 1947, I have the honor, in behalf of the Board of Corrections, to transmit the Final Report of the Special Crime Study Commission on Criminal Law and Procedure.

The commission was established by the Governor on November 1, 1947, and its program initiated at the "Governor's Conference on Crime and Juvenile Justice," Sacramento, November 17 and 18, 1947.

The project of a study of the criminal law in this State, both substantive and adjective, was a vast undertaking of a highly technical nature. The commission early sought the help of informed thinking throughout California. Public hearings were held to which specialists in the many and varied fields of criminal law and procedure were invited. The facilities of the law schools and their staffs were used; the opinions of members of the bar were sought; law enforcement officials and probation and correctional officials met and consulted with the commission. Many months were spent in public discussion of those matters upon which there was a consensus of opinion that some change seemed advisable.

In the field of the adjective law, much careful analysis was undertaken and many procedural sections of the Penal Code were intensively scrutinized. Attention may properly be called to the work of the commission in the drafting of proposed amendments to the codes—a work which required a technical, analytical and tremendously detailed study.

The commission's work has not resulted in recommendations for revolutionary change or the introduction of novelties into the criminal law. Rather, the recommendations have been largely concerned with the adaptation of existing legal concepts to present-day needs to the end that the statutory criminal law may be a better tool not only for the defense and the prosecution of criminal cases, but also for the trial and appellate judges.

The board is particularly desirous of noting the recommendation contained in Part III of the report which proposes a continuing study group, charged with the responsibility of continuous revision of criminal

law and procedure. It is felt that only through the medium of such a permanent body may the criminal law acquire the responsiveness to current legal and social concepts which is so vital to the health of the community.

The Board of Corrections is particularly appreciative of the patience and cooperation of the members of the Assembly Judiciary Committee and its chairman, Hon. Ralph M. Brown, who have devoted much time to the legislative program of the commission and who have been of great assistance in clarifying and explaining the work of the commission to the Legislature.

Recognition and high praise are due each of the commission members for the long and arduous hours spent in painstaking research. The work has been performed at the expense of considerable personal sacrifice by each member of the group and represents the best in the tradition of citizen service in behalf of the public welfare. The work of the group is a significant step forward in modernization in the fields of study specified in the Governor's executive order creating the commission.

Respectfully submitted,

THE STATE BOARD OF CORRECTIONS

RICHARD A. MCGEE, Chairman
WALTER A. GORDON, Vice Chairman
O. H. CLOSE, Member
CHARLES W. DULLEA, Member
KARL HOLTON, Member
MRS. ANNE HUMPHREYS, Member
GERALD C. KEPPLE, Member
MRS. HELEN LEGG, Member
ERVIS W. LESTER, Member
JUDGE ISAAC PACHT, Member

By RICHARD A. MCGEE, Chairman

LETTER OF TRANSMITTAL

June 30, 1949

State Board of Corrections
State Office Building No. 1
Sacramento 14, California

Attention: Hon. Richard A. McGee, Chairman

Gentlemen: In conformity with the provisions of Section 6028.3 of the Penal Code, I am transmitting herewith the Final Report of the Commission for the Study of Criminal Law and Procedure.

Many of the recommendations referred to in this report have been incorporated in bills which are now before the Legislature and which we hope will be enacted into law. The balance of the report deals with further studies which should be made by an appropriate organization established for the purpose of continuous study of the criminal law.

Respectfully submitted,

Isaac Pacht, Chairman

INTRODUCTION

A. *Objective of Commission*

In Governor Earl Warren's executive order creating the Commission on Criminal Law and Procedure, it is provided:

> "Said commission is authorized and instructed to examine, evaluate, and make recommendations respecting the effectiveness of all criminal laws and procedures now in force in California for the purpose of administering criminal justice and maintaining law and order.
>
> ---
>
> "The scope of these inquiries shall include, but shall not be limited to, studies of: (a) the substantive and adjective law of California affecting the administration of criminal justice and the maintenance of law and order; (b) the laws of California established for the protection of civil rights and the safeguarding of the privileges of individual citizens as provided for in the Bill of Rights; (c) the organization, administration, functions, policies, and practices of the office of district attorney and public defender; (d) the appointment of defense attorneys by the court and the utilization of legal aid societies; (e) the organization, administration, functions, policies, and practices of the courts with respect to their jurisdiction in criminal matters; (f) the organization, administration, functions, policies, and practices of county grand juries."

In conformity with this directive, the commission undertook a study of both the substantive and procedural provisions of our criminal laws. We approached the performance of our duties with humility and with the knowledge that no matter how great and comprehensive our labors might be, we could never hope to correct all the deficiencies presently existing in the administration of the criminal law or remedy all of its shortcomings. No code of laws ever created by the ingenuity of man as a guide for the behavior of human beings ever comprehended all of the situations which an increasingly complex civilization created. And so long as human beings administer justice with all the faults, foibles and frailties which humans possess, there is always likely to be, in some instances, a miscarriage of justice—the conviction of the innocent or the acquittal of the guilty.

A penal code is satisfactory which defines crimes in simple and precise terms and which sets up machinery, under suitable constitutional guarantees, for the swift and certain apprehension, trial and punishment of those who violate its provisions. Judged by these standards, the Penal Law of California is by and large a suitable system for the objectives sought to be accomplished. Yet, by reason of the radical changes which have taken place in the political and economic life of the State since 1872, when the basic law was enacted, a certain comprehensive revision of the law was indicated. For it is plain to see that a system of penal statutes adequate for an agricultural and mining community of small population, cannot be wholly satisfactory for a commonwealth boasting a population

of some ten million people, most of them living in crowded industrial communities. When our Penal Code was first adopted, we had no automobiles, no airplanes, no radios, no freeways, and none of the things which we are pleased to call improvements of modern civilization. The form and manner of doing business was much simpler. The people in a given community were acquainted with each other—their habits, their avocations, their mental processes and their antecedents. Today we are living in a different and faster age. Scientific discoveries have improved our standard of living, but they have also brought with them many and complex problems of government and law enforcement.

In undertaking the task assigned to us by the Governor pursuant to legislative authority, we endeavored at all times to bear in mind the sage advice given by Chief Justice Phil S. Gibson, when he addressed the Governor's Crime Conference at Sacramento, on November 18, 1947. He there said:

> "My sixth and final observation is a word of caution. I offer it with due humility, since it touches upon a human failing from which most of us suffer. My thought is that the history of reform of criminal law and procedure has a pendulum-like tenacity of organized crime, an angry desire to stamp it out with ruthless efficiency, an impatience at the delays and technicalities of legal procedure, doubts as to the social value of contentious lawyers and deliberate judges. But whenever we attempt to translate these partly emotional beliefs into action, we come eventually to a stop before convictions just as deeply rooted in our character and history and just as valid. We become conscious of the harm which can be done to innocent men and women by a legal process which puts speed before justice and truth; we are appalled at the methods of the criminal courts of totalitarian regimes which consider a bill of rights a burdensome appendage; we recall thoughtfully and begin to see some merit in the timeworn adage that it is better to allow a hundred guilty men to go free than to convict one who is innocent.
>
> "Today it seems apparent that the pendulum has swung so far away from a militant attack on crime that we must do something about it. But we must remember, in this connection, that the judiciary of this Country has laid down as constitutional rights the fundamental elements of fairness and justice in criminal trials. The rights to be properly charged with the crime, to be confronted with accusing witnesses, to be represented by counsel, to be free to testify or not, and other aspects of criminal procedure, are beyond the reach of any statutory revision. Likewise, the enlargement of the right of review after conviction, by habeas corpus, and in some states by the writ of coram nobis, may, to a considerable extent, be grounded in constitutional guaranties.
>
> "Let us therefore not make the mistake of trying to find short cuts which will circumvent the time honored procedure of trial and appeal and perhaps jeopardize the rights of innocent men. Let us, in this undertaking, look at both sides of the picture, remembering both objectives of the criminal law. Let us use vision and understanding and tolerance to produce a system which will fit properly between the extremes and will give us not a fast, nor a slow, but an effective and just criminal law and procedure."

Bearing in mind the broad character of the Governor's directive and the wise observations of Chief Justice Gibson, our commission early recognized that in order to intelligently realize its objective it would be necessary to first obtain a broad factual background of condition within the field of its investigations as they existed throughout the State, to determine whether or not the procedures which functioned efficiently in the more populous counties did so with equal effectiveness in counties with smaller populations; to ascertain whether remedial legislation proposed chiefly for urban or agricultural areas would give promise of equal success in industrial areas.

Heretofore amendments have been made to existing laws to meet specific problems as they arose. The matter of inferior courts had some attention. Municipal courts were created in the larger cities and justice courts were reclassified according to population in certain other areas. Too frequently such changes in the law or the amendments thereto were not entirely reconciled or brought into harmony with other existing laws respecting the same subject matter. In many instances two or more statutes cover the same subject matter in different ways, creating conflict or duplication. Diverse procedures for each type of court are to be found. Confusion is frequently the result.

B. Review of Activities

Immediately after the appointment of the members of the commission and its organization, a program of procedure was adopted which called for the holding of hearings in many communities, both rural and metropolitan, in the State. In addition to the public hearings, the commission conducted many business meetings and independent research and had considerable correspondence concerning many of the problems, with which it was dealing with recognized authorities in the study and practice of criminal law. Attending these hearings were law enforcement officers, including sheriffs, chiefs of police and district attorneys, justices of the appellate courts and judges of the trial courts, probation and parole officers, psychiatrists, Members of the Legislature, representatives of the State Bar and of county bar associations, public defenders, deans and members of the faculties of law schools, and other citizens whose experience and views on the administration of criminal justice proved of great value in the work of the commission. To all of these, the commission extends its thanks and appreciation for their constructive suggestions and cooperation.

Among those who gave the commission valuable aid in the performance of its work was Honorable Charles W. Fricke, for over twenty-one years Judge of the Superior Court of Los Angeles County, and for several years prior to the commencement of his judicial service a prosecuting attorney of extensive experience. Judge Fricke submitted for the consideration of the commission many suggestions for the simplification and improvement of the administration of our criminal law, many of which we adopted and are incorporating in this report.

In considering the advisability of repealing or amending existing sections of the code or recommending the enactment of new statutes, analysis had to be made of other provisions of law dealing with the same subject matter for the purpose of bringing the various changes into harmony. In this task the commission had the valuable assistance of

Judge Ralph Hoyt of Alameda County; Professor A. M. Kidd, of the School of Jurisprudence, University of California; and Public Defender Willard Shea of Alameda County, all of whom spent countless days in going over the material. Their advice and assistance is gratefully acknowledged.

In February 1949 William B. Neeley, one of the original members of this commission was appointed by Governor Warren to the superior court bench. Ellery E. Cuff, who succeeded him as public defender of Los Angeles County and who had served the commission in the capacity of administrative adviser was thereafter appointed to succeed Judge Neeley.

John Harby Paine joined the staff on February 1, 1949, and has acted as administrative adviser since that time. Mr. Paine made a commendable contribution to the work of the commission by analyzing and organizing the material which had been gathered in the course of the many hearings, in researching the law on the subjects considered by the commission and in drafting appropriate legislation. To him particularly the commission wishes to express its most sincere appreciation.

Note should also be made of the valuable assistance which we received from Frank E. Cane, Executive Officer, and Walter Dunbar, his assistant, in arranging the many hearings and meetings of the commission and interesting public officials and private citizens in the importance of correcting existing defects in the adjective and procedural law dealing with the administration of criminal justice.

In March 1949 the Second Progress Report of the commission was submitted to the Board of Corrections and transmitted to the Governor and the Legislature. The recommendations therein contained were then drafted ino proposed legislation and presented to the Legislature. The legislative program thus initiated is set forth in Parts I and II of this report.

C. *Procedural Changes in the Trial of Criminal Cases in Inferior and Superior Courts*

The Honorable Hartley Shaw, Presiding Judge of the Appellate Department of the Superior Court of the County of Los Angeles, very generously presented to this commission for its consideration his proposed revision of the procedure of the trial of criminal cases in the inferior and superior courts of this State. This proposed revision is the result of years of careful study by Judge Shaw of the procedures now governing the administration of justice in California.

Judge Shaw's work was undertaken at the request of Chief Justice Phil S. Gibson, Chairman of the Judicial Council. The commission has spent considerable time in analyzing the proposals presented by Judge Shaw, and in joint studies with him has made many amendments and additions thereto.

Assembly Bill 2599 embodied the recommendations of Judge Shaw as revised and concurred in by the commission.

It was the opinion of the commission that the changes therein proposed would constitute a constructive contribution to the simplification and unification of the procedure governing the administration of justice.

PART I

Recommendations Contained in the Commission's Second Progress Report and Incorporated in Proposed Legislation Presented to the 1949 Legislature

Recommendations Contained in the Commission's Second Progress Report and Incorporated in Proposed Legislation Presented to the 1949 Legislature

The following recommendations of the commission were submitted to the 1949 Session of the Legislature. Notes indicating the legislative history of each bill are appended in the margin.

Recommendation 1. Public Defender

It is the opinion of the commission that every defendant charged with an offense triable in the superior court is entitled to be represented by counsel at every stage of the proceeding; that the right "to appear and defend in person and with counsel" which is set forth in Article I, Section 13, of the Constitution of this State, has not been realized unless the defendant is given the right to have counsel at the preliminary hearing of a felony complaint as well as at the time of trial and that if the defendant is financially unable to employ counsel then it is the duty and obligation of the State to provide counsel for his defense just as it is its duty to provide counsel for the people in the prosecution of the action.

It is the recommendation of this commission that ultimately every county of the State be required to establish the office of public defender and that those counties having too small a population to justify the maintenance of a full-time public defender join with other counties of like character in the establishment of the office of public defender. In order to arrive at its recommended goals as rapidly as possible, the commission has drafted and presented to the Legislature Assembly Bill 2576 [1] which, as amended to date, reads as follows:

An act to amend Sections 27700, 27703, 27705, 27706, 27708, 27709, and 27710, of the Government Code, to add Sections 27705.1 and 27711 thereto, and to repeal Section 27707 thereof, relating to public defenders.

The people of the State of California do enact as follows:

SECTION 1. Section 27700 of the Government Code is amended to read:

27700. The board of supervisors of any county may establish the office of public defender for the county. Any county may join with one or more counties to establish and maintain the office of public defender to serve such counties.

SEC. 2. Section 27703 of said code is amended to read:

27703. If the public defender of any county is to be appointed, he shall be appointed by the board of supervisors to serve at its will. The public defender of any two or more counties shall be appointed by the boards of supervisors of such counties.

[1] Passed by Assembly; passed by Senate; to Governor.

SEC. 3. Section 27705 of said code is amended to read:

27705. In counties of the first, second and third classes, the public defender shall devote all his time to the duties of his office and shall not engage in the practice of law except in the capacity of public defender.

SEC. 4. Section 27705.1 is added to said code, to read:

27705.1. A public defender shall not during his incumbency defend or assist in the defense of, or act as counsel for, any person accused of any crime in any county, except as set forth in this chapter.

SEC. 5. Section 27706 of said code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, he shall defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior court at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge against him upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in his opinion, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, he shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars ($100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, he shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

SEC. 6. Section 27707 of said code is repealed.

SEC. 7. Section 27708 of said code is amended to read:

27708. In each county the board of supervisors shall provide suitable rooms for the use of the public defender and office furniture and supplies with which to properly conduct the business of his office. Such expenses are a charge upon the county or counties in which the public defender is employed.

SEC. 8. Section 27709 of said code is amended to read:

27709. The expense of printing or typewriting the briefs on appeal on behalf of a defendant represented by a public defender is a county charge.

SEC. 9. Section 27710 of said code is amended to read:

27710. The public defender shall keep a record of all services rendered by him in that capacity and shall file with the board or boards of supervisors annually a written report of his services.

SEC. 10. Section 27711 is added to said code, to read:

27711. The annual salary of each public defender shall be such as has been or may be fixed by the county or counties.

Recommendation 2. Amend Sections 987a, 858 and 987 of the Penal Code to provide for assignment of counsel at all stages of proceedings of cases triable in superior court and compensation therefor.

Until such time as the office of public defender is established throughout the State, the commission recommended that Sections 987a, 858 and 987 of the Penal Code be amended and incorporated such recommendations in Assembly Bills 2578 and 2592 [2] which, as amended, respectively read as follows:

ASSEMBLY BILL 2578

An act to amend Section 987a of the Penal Code, relating to the compensation of counsel appointed to defend persons charged with crime.

The people of the State of California do enact as follows:

SECTION 1. Section 987a of the Penal Code is amended to read:

987a. The board of supervisors shall by ordinance provide that in any case in which counsel is assigned in any court to defend a person who is charged with an offense triable in the superior court and who desires but who is unable to employ counsel, such counsel, upon recommendation of the court or a judge thereof, shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the appointing court, to be paid out of the general fund of the county.

This section shall not apply in any county or city and county in which a public defender is elected or appointed.

ASSEMBLY BILL 2592

An act to amend Sections 858 and 987 of the Penal Code, relating to the duty of magistrates and courts to inform defendants of their right to counsel, and to the assignment of counsel.

The people of the State of California do enact as follows:

SECTION 1. Section 858 of the Penal Code is amended to read:

858. When the defendant is brought before the magistrate upon an arrest, either with or without warrant, on a charge of having committed a public offense, the magistrate must immediately inform him of the charge against him, and of his right to the aid of counsel in every stage of the proceedings, and if the offense of which the defendant is accused is triable in the superior court and the defendant desires but is unable to employ counsel, the magistrate must assign counsel to defend him at all stages of the proceeding.

SEC. 2. Section 987 of said code is amended to read:

987. If the defendant appears for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the court must assign counsel to defend him at all stages of the proceeding.

[2] Assembly Bill 2578 was passed by Assembly; tabled by Senate Judiciary Committee.
Assembly Bill 2592 was passed by Assembly; tabled by Senate Judiciary Committee.

Recommendation 3. Amend Section 1018 of the Penal Code, relating to pleas and the withdrawal thereof.

It was the opinion of this commission that a defendant charged with an offense punishable by death or life imprisonment without the possibility of parole should not be permitted to plead guilty thereto unless represented by counsel and that no defendant charged with a felony should be allowed to plead guilty unless he were informed of his right to counsel and thoroughly understood the nature of such right. The commission further believed that the right of a defendant to withdraw his plea of guilty should be liberalized in those cases where he appeared without counsel.

To accomplish this purpose the commission recommended the amendment of Section 1018 of the Penal Code as now set forth in Assembly Bill 2577,[3] as amended, which reads as follows:

An act to amend Section 1018 of the Penal Code, relating to pleadings and proceedings after indictment.

The people of the State of California do enact as follows:

SECTION 1. Section 1018 of the Penal Code is amended to read:

1018. Unless otherwise provided by law every plea must be put in by the defendant himself in open court. No plea of guilty of a felony for which the maximum punishment is death, or life imprisonment without the possibility of parole, shall be received from a defendant who does not appear with counsel, nor shall any plea of guilty of any other felony be accepted from any defendant who does not appear with counsel unless the court shall first fully inform him of his right to counsel and unless the court shall find that the defendant understands his right to counsel, and freely waives it. On application of the defendant at any time before judgment the court may, and in case of a defendant who appeared without counsel at the time of the plea the court must, for good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted.

Upon indictment or information against a corporation a plea of guilty may be put in by counsel.

This section shall be liberally construed to effect these objects and to promote justice.

Recommendation 4. Amend Section 995 of the Penal Code, relating to setting aside indictment or information and add section to said code to provide for procedure for issuance of writs of prohibition.

The commission's investigation has disclosed the fact that the present law with respect to the granting of writs of prohibition by appellate courts on the ground that the evidence adduced before the grand jury in support of the indictment was insufficient, has led to unnecessary delay in the trial of criminal cases; that in some instances it has been possible by securing of an alternate writ of prohibition just previous to the day set for the trial of a criminal case, without notice to the district attorney, to have proceedings in the trial court suspended until such time as an application for the writ is heard. In such case, even though the peremptory writ is denied, the trial is necessarily delayed sixty days until the judgment of the appellate court becomes final. In order to

[3] Passed by Assembly; passed by Senate; to Governor.

prevent the use of the writ purely as an instrument of delay, and yet to protect fully the defendant in those instances where an indictment has been returned or an information filed without reasonable or probable cause, the commission recommended an amendment to Section 995 of the Penal Code and the addition of Section 999a to said code as set forth in Assembly Bill 2579,[4] as amended, which reads as follows:

An act to amend Section 995 of the Penal Code, and to add Section 999a thereto, relating to proceedings after indictment.

The people of the State of California do enact as follows:

SECTION 1. Section 995 of the Penal Code is hereby amended to read:

995. The indictment or information must be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases:

If it be an indictment:

1. Where it is not found, endorsed, and presented as prescribed in this code.

2. That the defendant has been indicted without reasonable or probable cause.

If it be an information:

1. That before the filing thereof the defendant had not been legally committed by a magistrate.

2. That the defendant had been committed without reasonable or probable cause.

SEC. 2. Section 999a is added to the Penal Code, to read:

999a. An application for a petition for a writ of prohibition, predicated upon the ground that the indictment was found without reasonable or probable cause or that the defendant had been committed on an information without reasonable or probable cause, must be filed in the appellate court within fifteen days after a motion made under Section 995 of this code to set aside the indictment on the ground that the defendant has been indicted without reasonable or probable cause or that the defendant had been committed on an information without reasonable or probable cause, has been denied by the trial court. A copy of such application shall be served upon the district attorney of the county in which the indictment is returned or the information is filed. The alternative writ shall not issue until five days after the service of notice upon the district attorney and until he has had an opportunity to appear before the appellate court and to indicate to the court the particulars in which the evidence is sufficient to sustain the indictment or commitment.

Recommendation 5. Amend Section 69 of the Penal Code, relating to preventing by threat or violence an executive officer from performing a duty imposed by law.

Section 69 of the Penal Code now reads as follows:

"69. Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of

[4] Passed by Assembly; passed by Senate; to Governor.

his duty, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years."

The present five-year term of imprisonment in the county jail is meaningless by reason of the one-year limitation prescribed for imprisonment in the county jail under Section 19a.

Section 102 of the Penal Code refers to interference with an officer where no force or violence is employed; while in this section an essential element is a "threat" or "force" or "violence." *Manss* v. *Superior Court* (1914) 25 Cal. App. 533, 535. Moreover, the offense defined in this section is in the nature of bribery and should be subject to a possible state prison sentence. The commission, therefore, recommended that said section be amended to read as provided in Assembly Bill 2580:[5]

An act to amend Section 69 of the Penal Code, relating to punishment for crime of resisting an executive officer.

The people of the State of California do enact as follows:

SECTION 1. Section 69 of the Penal Code is amended to read:

69. Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by fine not exceeding five thousand dollars ($5,000), or imprisonment in the state prison not exceeding five years or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Recommendation 6. Amend Section 147 of the Penal Code, relating to wilful inhumanity or oppression by any officer towards any prisoner.

Section 147 of the Penal Code provides:

"147. Every officer who is guilty of wilful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by fine not exceeding two thousand dollars, and by removal from office."

It was the opinion of the commission that the punishment provided in the foregoing section is incompatible with the seriousness of the offense. The commission, therefore, recommended that said section be amended to provide as set forth in Assembly Bill 2582,[6] as amended,

An act to amend Section 147 of the Penal Code, relating to punishment for inhumanity toward prisoners.

The people of the State of California do enact as follows:

SECTION 1. Section 147 of the Penal Code is amended to read:

147. Every officer who is guilty of wilful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. Upon conviction such officer shall be removed from office.

[5] Referred to Assembly Judiciary Committee.
[6] Passed by Assembly; re-referred to Senate Judiciary Committee.

Recommendation 7. Amend Section 148 of the Penal Code, relating to wilfully resisting or obstructing any public officer in the discharge of his duty.

Section 148 of the Penal Code provides:

"148. Every person who wilfully resists, delays, or obstructs any public officer, in the discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years."

Similar reasoning to that set forth in Recommendation 6 above (with reference to Section 147 of the Penal Code) indicated the desirability of Assembly Bill 2581,[7] which reads as follows:

An act to amend Section 148 of the Penal Code, relating to punishment for resisting a public officer.

The people of the State of California do enact as follows:

SECTION 1. Section 148 of the Penal Code is amended to read:

148. Every person who wilfully resists, delays, or obstructs any public officer, in the discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine not exceeding five thousand dollars ($5,000) or imprisonment in the county jail not exceeding one year or in the state prison not exceeding five years or by both such fine and imprisonment.

Recommendation 8. Amend Section 149 of the Penal Code, relating to assaults by public officers under color of authority.

Section 149 of the Penal Code provides:

"149. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years."

The same reasoning as set forth in recommendation 6 indicated the desirability of Assembly bill 2583,[8] which reads as follows:

An act to amend Section 149 of the Penal Code, relating to punishment of public officers for assaults.

The people of the State of California do enact as follows:

SECTION 1. Section 149 of the Penal Code is amended to read:

149. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by fine not exceeding five thousand dollars ($5,000) or imprisonment in the county jail not exceeding one year, or in the state prison not exceeding five years, or by both such fine and imprisonment.

Recommendation 9. Restate in separate sections the subject matter now contained in Section 273d of the Penal Code, relating to corporal injury to a wife or child and the punishment therefor.

Penal Code Section 273d presently reads as follows:

"273d. Any husband who wilfully inflicts upon his wife corporal injury resulting in a traumatic condition, but not constituting

[7] Referred to Assembly Judiciary Committee.
[8] Passed by Assembly; re-referred to Senate Judiciary Committee.

a felonious assault or attempted murder, and any person who wilfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, but not constituting a felonious assault or attempted murder, is nevertheless guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not more than two years or in the county jail for not more than one year."

The two crimes denounced by the foregoing sections are distinct in nature and it is the opinion of the commission that cruel and inhuman treatment of children is deserving of a more severe penalty. The commission therefore recommended that the subject matter of this section be restated under two separate sections and has incorporated that recommendation into Assembly Bill 2562,[9] which, as amended, reads as follows:

An act to amend Section 273d of, and to add Section 273 to, the Penal Code, relating to wilful corporal injury to wife or child.

The people of the State of California do enact as follows:

SECTION 1. Section 273 is added to the Penal Code, to read:

273. Any person who wilfully inflicts upon any child any cruel or inhuman punishment or injury, but not constituting felonious assault or attempted murder, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for not more than five years or in the county jail for not more than one year.

SEC. 2. Section 273d of the Penal Code is amended to read:

273d. Any husband who wilfully inflicts upon his wife corporal injury, but not constituting felonious assault or attempted murder, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not more than two years or in the county jail for not more than one year.

Recommendation 10. Amend Section 283 of the Penal Code which provides the punishment for the crime of bigamy.

Penal Code Section 283 presently provides as follows:

"283. Bigamy is punishable by a fine not exceeding five thousand dollars and by imprisonment in the state prison not exceeding ten years."

It is the consensus of the commission that the provision for a fine should be stricken and that substantial justice would be effected if the court were given discretion either to impose a county jail or state prison sentence. Such a recommendation has been presented to the Legislature in Assembly Bill 2561,[10] which reads as follows:

An act to amend Section 283 of the Penal Code, relating to punishment for bigamy.

The people of the State of California do enact as follows:

SECTION 1. Section 283 of the Penal Code is amended to read:

283. Bigamy is punishable by imprisonment in a county jail not exceeding one year or in the state prison not exceeding ten years.

[9] Passed by Assembly; tabled by Senate Judiciary Committee.
[10] Passed by Assembly; amended in Senate; passed by Senate as amended; Assembly concurred; to Governor.

Recommendation 11. Repeal Section 367e of the Penal Code, relating to intoxicated automobile driver.

Since Section 501 of the California Vehicle Code covers the same subject matter as Section 367e of the Penal Code, the commission has, in Assembly Bill 2569,[11] proposed the repeal of the latter section.

An act to repeal Section 367e of the Penal Code, relating to operating a motor vehicle while intoxicated.

The people of the State of California do enact as follows:

SECTION 1. Section 367e of the Penal Code is repealed.

Recommendation 12. Amend Sections 337c, 337d, 337e, 337f, 337.3 and 337.7 of the Penal Code, relating to corrupt sporting practices.

In each of the above named sections the penalty is either imprisonment in the state prison for not exceeding five years or by a fine not exceeding five thousand dollars or by both such fine and imprisonment. The fact that a fine can be imposed for the violation of any one of the foregoing sections means that it is within the discretion of the court to determine whether the offense shall be punishable as a felony or a misdemeanor. The commission has therefore recommended:

That each section be amended to provide that the punishment for a violation thereof shall be by imprisonment in the county jail for not exceeding one year or in the state prison for not more than five years or by a fine not exceeding five thousand dollars or by both such fine and imprisonment. This recommendation has been incorporated in Assembly Bill 2593,[12] as amended, which follows:

An act to amend Sections 337c, 337d, 337e, 337f, 337.3, and 337.7 of the Penal Code, relating to crimes in connection with sporting events, contests and exhibitions, including horse racing, baseball, football, boxing and wrestling.

The people of the State of California do enact as follows:

SECTION 1. Section 337c of the Penal Code is amended to read:

337c. Any person who accepts, or attempts to accept, or offers to accept, or agrees to accept, any money, bribe or thing of value, with the intention or understanding or agreement that he will not use his best efforts to win any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests or exhibitions as baseball, football, boxing, wrestling and horse racing, in which he is playing or participating or is about to play or participate in, or to so conduct himself in such sporting event, contest or exhibition that any other player or participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest or exhibition, is guilty of a crime, and shall be punished by imprisonment in the state prison for a period not exceeding five years, or in the county jail for a period not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

[11] Tabled by Assembly Judiciary Committee.
[12] Referred to Committee on Public Morals.

SEC. 2. Section 337d of said code is amended to read:

337d. Any person who gives, or offers to give, or promises to give, or attempts to give, any money, bribe or thing of value to any person who is umpiring, managing, directing, refereeing, supervising, judging, presiding or officiating at, or who is about to umpire, manage, direct, referee, supervise, judge, preside or officiate at any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests and exhibitions as baseball, football, boxing, wrestling and horse racing, with the intention or agreement or understanding that such person shall corruptly or dishonestly umpire, manage, direct, referee, supervise, judge, preside or officiate at, any such sporting event, contest or exhibition, or the players or participants thereof, with the intention or purpose that the result of the sporting event, contest or exhibition will be affected or influenced thereby, is guilty of a crime and shall be punished by imprisonment in the state prison for a period not exceeding five years, or in the county jail for a period not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 3. Section 337e of said code is amended to read:

337e. Any person who as umpire, manager, director, referee, supervisor, judge, presiding officer or official receives or agrees to receive, or attempts to receive any money, bribe or thing of value, with the understanding or agreement that such umpire, manager, director, referee, supervisor, judge, presiding officer or official shall corruptly conduct himself or shall corruptly umpire, manage, direct, referee, supervise, judge, preside or officiate at, any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests and exhibitions as baseball, football, boxing, wrestling and horse racing, or any player or participant thereof, with the intention or purpose that the result of the sporting event, contest or exhibition will be affected or influenced thereby, is guilty of a crime and shall be punished by imprisonment in the state prison for a period not exceeding five years, or in the county jail for a period not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 4. Section 337f of said code is amended to read:

337f. Any person:

(a) Who influences, or induces, or conspires with, any owner, jockey, groom or other person associated with or interested in any stable, horse, or race in which a horse participates, to affect the result of such race by stimulating or depressing a horse through the administration of any drug to such horse, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, or

(b) Who so stimulates or depresses a horse, or

(c) Who knowingly enters any horse in any race within a period of twenty-four hours after any drug has been administered to such horse for the purpose of increasing or retarding the speed of such horse, is guilty of a crime and punishable by a fine of not more than five thousand dollars ($5,000), or by imprisonment in a state prison for not more than five years, or in the county jail for not more than one year, or by both such fine and imprisonment, or

(d) Who wilfully or unjustifiably enters or races any horse in any running or trotting race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club or the United States Trotting Association or who wilfully sets on foot, instigates, engages in or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club or the United States Trotting Association is guilty of a crime and punishable by imprisonment in the state prison for a period not exceeding five years or in the county jail for a period not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

The term "drug" includes all substances recognized as having the power of stimulating or depressing the central nervous system, respiration, or blood pressure of an animal, such as narcotics, hypnotics, benzedrine or its derivatives, but shall not include recognized vitamins or supplemental feeds approved by the veterinarian representing the California Racing Board.

SEC. 5. Section 337.3 of said code is amended to read:

337.3. Any person who in the commission of touting falsely uses the name of any official of the California Horse Racing Board, its inspectors or attaches, or of any official of any race track association, or the names of any owner, trainer, jockey or other person licensed by the California Horse Racing Board as the source of any information or purported information is guilty of a crime and is punishable by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the state prison for a term of not more than five years, or in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 6. Section 337.7 of said code is amended to read:

337.7. Any person other than the lawful holder thereof who has in his possession any credential or license issued by the California Horse Racing Board to licensees and any person who has a forged or simulated credential or license of said board in his possession, and who uses such credential or license for the purpose of misrepresentation, fraud or touting is guilty of a crime and shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the state prison for not more than five years, or in the county jail for not more than one year, or by both such fine and imprisonment.

If he has previously been convicted of any offense under this chapter, he shall be imprisoned.

Recommendation 13. Amend Section 403 of the Penal Code, relating to disturbance of public meetings other than religious or political.

Section 403 of the Penal Code now reads as follows:

"403. Every person who, without authority of law, wilfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such as is mentioned in sections fifty-nine and three hundred and two, is guilty of a misdemeanor."

A study of the code indicates that the reference to Section 59 of the Penal Code contained in Section 403 should have been to Section 58 which is now Section 5004 of the Elections Code.

The commission has therefore drafted and presented to the Legislature Assembly Bill 2596,[13] which reads as follows:

An act to amend Section 403 of the Penal Code, relating to disturbing public meetings.

The people of the State of California do enact as follows:

SECTION 1. Section 403 of the Penal Code is amended to read:

403. Every person who, without authority of law wilfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such as is mentioned in Section 302 of the Penal Code and Section 5004 of the Elections Code, is guilty of a misdemeanor.

Recommendation 14. Amend Section 405 of the Penal Code, which provides the punishment for riot.

Section 405 of the Penal Code presently provides:

"405. Every person who participates in any riot is punishable by imprisonment in the county jail not exceeding two years, or by fine not exceeding two thousand dollars, or both."

Section 19a of the Penal Code limits imprisonment in a county jail on conviction of a misdemeanor to one year. Since the facts in some cases may justify a more severe penalty, the commission has proposed Assembly Bill 2570,[14] which reads as follows:

An act to amend Section 405 of the Penal Code, relating to punishment for riot.

The people of the State of California do enact as follows:

SECTION 1. Section 405 of the Penal Code is amended to read:

405. Every person who participates in any riot is punishable by imprisonment in the county jail not exceeding one year or in the state prison not exceeding two years or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

Recommendation 15. Amend Section 489 of the Penal Code, which provides the punishment for grand theft.

Section 489 of the Penal Code now reads as follows:

"489. Grand theft is punishable by imprisonment in the state prison for not less than one nor more than ten years."

The definition of grand theft embraces a wide range of items which vary greatly in value. The proposed amendment would give the court in

[13] Passed by Assembly; passed by Senate; to Governor.

[14] Amended in Assembly to delete the possibility of imprisonment in the state prison. The commission is not in accord with this amendment. Passed as amended and referred to Senate Judiciary Committee.

a proper case discretion to impose a misdemeanor or felony punishment. The commission has recommended Assembly Bill 2571,[15] which reads:

An act to amend Section 489 of the Penal Code, relating to the punishment for the crime of grand theft.

The people of the State of California do enact as follows:

SECTION 1. Section 489 of the Penal Code is amended to read:

489. Grand theft is punishable by imprisonment in the county jail for not more than one year or in the state prison for not less than one nor more than ten years.

Recommendation 16. Repeal Section 496 of the Penal Code; amend Section 496bb of said code and renumber said Section 496.

Section 496bb of the Penal Code defines the same offense now defined by Section 496 of said code and is more inclusive in its scope. The commission has therefore recommended that Section 496 be repealed and that Section 496bb be renumbered and amended to provide that the punishment for a violation thereof shall be by imprisonment in the county jail for not more than one year or in the state prison for not more than ten years.

The commission believes further that a presumption of knowledge that property has been stolen should be set up in the section when property has been purchased from a minor. These recommendations have been incorporated in Assembly Bill 2572,[16] which, as amended, reads:

An act to repeal Section 496 and to amend and renumber Section 496bb of the Penal Code, relating to buying, receiving, concealing, or withholding stolen property, and prescribing penalties for violation of the provisions thereof.

The people of the State of California do enact as follows:

SECTION 1. Section 496 of the Penal Code is repealed.

SEC. 2. Section 496bb of the Penal Code is renumbered Section 496 and amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the same to be so stolen or obtained, or who conceals, withholds or aids in concealing or withholding any such property from the owner is punishable by imprisonment in a state prison for not more than five years, or in a county jail for not more than one year.

2. Every person whose principal business is dealing in or collecting used or second hand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to so sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

[15] Passed by Assembly; passed by Senate; to Governor.

[16] Passed by Assembly; re-referred to Senate Judiciary Committee.

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to so sell or deliver it.

Any person who buys or receives any property from any person under the age of eighteen years, unless such property is sold by such minor at a fixed place of business carried on by the minor or his employer, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

Recommendation 17. Repeal Section 645 of the Penal Code, which provides an additional penalty for persons guilty of carnal abuse.

This section now provides that one guilty of carnal abuse of a female person under the age of ten years may be further punished by an operation for the purpose of preventing procreation. Section 2670 of said code now permits such asexualization on a more reasonable basis.

The commission has therefore recommended in Assembly Bill 2597[17] that this section be repealed. The bill reads:

An act to repeal Section 645 of the Penal Code, relating to the prevention of procreation of persons convicted of carnal abuse of females under the age of ten years.

The people of the State of California do enact as follows:

SECTION 1. Section 645 of the Penal Code is repealed.

Recommendation 18. Amend Section 653f of the Penal Code, which defines the offense of soliciting the commission of certain enumerated crimes.

Section 653f of the Penal Code now provides:

"653f. Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of murder, robbery, burglary, grand theft, receiving stolen property, extortion, rape by force and violence, perjury, subornation of perjury, forgery, or kidnaping, is punishable by imprisonment in the county jail not longer than one year or in the state prison not longer than five years, or by fine of not more than five thousand dollars. Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances."

[17] Re-referred to Assembly Judiciary Committee.

The commission is of the opinion that the scope of the section should be expanded to include the solicitation of any felony and so recommended in Assembly Bill 2584,[18] which reads:

An act to amend Section 653f of the Penal Code, relating to the soliciting of the commission of a crime and the evidence upon which conviction may be had.

The people of the State of California do enact as follows:

SECTION 1. Section 653f of the Penal Code is amended to read:

653f. Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of any felony is punishable by imprisonment in the county jail not longer than one year, or in the state prison not longer than five years, or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment. Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

Recommendation 19. Amend Section 681 contained in Part 1, Title 16, of the Penal Code, relating to cruel punishment in reformatories, etc.

At the present time there are two sections in the Penal Code numbered 681, the first being in Part 1 of the Penal Code, Title 16, the second being in Part 2. The former section now provides that it shall be unlawful to use cruel, corporal or unusual punishment in penal institutions and state hospitals. The subject matter of the section is more properly placed in that part of the Penal Code dealing with penal institutions and state hospitals. (Part 3, Title 1, Chapter 4, Article 1.)

The commission has therefore recommended that said Section 681 be repealed and that the subject matter of the section be re-enacted as Section 2654a of the Penal Code. Such recommendations have been incorporated in Assembly Bill 2574,[19] which reads as follows:

An act to repeal Section 681 of the Penal Code as added by Chapter 583 of the Statutes of 1913 and to add Section 2654a to the Penal Code, relating to the punishment and treatment of persons in state, county and city institutions.

The people of the State of California do enact as follows:

SECTION 1. Section 681 of the Penal Code as added by Chapter 583 of the Statutes of 1913 is repealed.

SEC. 2. Section 2654a is added to the Penal Code, to read:

2654a. It shall be unlawful to use any cruel, corporal or unusual punishment or to inflict any treatment or wilfully permit any lack of care whatsoever which would injure or impair the health of any prisoner, inmate or person confined in any reformatory, institution, jail, state hospital or any other state, county, city and county, or city institution. Any person who violates any of the provisions of this section shall be punished by imprisonment in the county jail not to exceed one year or in the state prison not to exceed five years.

[18] Referred to Assembly Judiciary Committee.

[19] Passed by Assembly; re-referred to Senate Judiciary Committee.

Recommendation 20. Add Section 686a to the Penal Code, relating to waiving of privilege of self-incrimination by witness.

At the present time a witness at a preliminary examination may testify without claiming his privilege against self-incrimination and later at the time of trial in the superior court refuse to testify on the ground that his testimony might tend to incriminate him. The commission is of the opinion that the failure of such witness to claim such privilege ought to constitute a waiver thereof when the defendant was represented by counsel and had an opportunity for cross-examination at the preliminary examination. The commission recommended the addition of Section 686.5 to the Penal Code as set forth in Assembly Bill 2586,[20] which reads as follows:

An act to add Section 686.5 to the Penal Code, relating to waiver by witnesses of the privilege against self-incrimination, and to the admission in evidence of testimony taken at preliminary hearings.

The people of the State of California do enact as follows:

SECTION 1. Section 686.5 is added to the Penal Code, to read:

686.5. When a witness has testified at a preliminary hearing without claiming his constitutional privilege against self-incrimination, the failure to claim such privilege shall constitute a waiver of such witness's constitutional right to refuse to testify. If at such preliminary hearing the defendant was represented by counsel and had an opportunity to cross-examine such witness, the transcript of the testimony of such witness may, in the event of the refusal of such witness to testify at the trial, be received in evidence.

Recommendation 21. Amend Section 1041 of the Penal Code, defining issues of fact.

In 1927 when provision was made for the entry of the special plea of not guilty by reason of insanity, Section 1041 of the Penal Code was not amended to enumerate that plea as one of the pleas by which an issue of fact was raised. The section now reads:

"1041. An issue of fact arises (1) upon a plea of not guilty; (2) upon a plea of a former conviction or acquittal of the same offense; (3) upon a plea of once in jeopardy."

The commission recommended that Section 1041 of the Penal Code be amended as now set forth in Assembly Bill 2591,[21] which reads as follows:

An act to amend Section 1041 of the Penal Code, defining issue of fact.

The people of the State of California do enact as follows:

SECTION 1. Section 1041 of the Penal Code is amended to read:

1041. An issue of fact arises:

1. Upon a plea of not guilty.
2. Upon a plea of a former conviction or acquittal of the same offense.
3. Upon a plea of once in jeopardy.
4. Upon a plea of not guilty by reason of insanity.

[20] Referred to Assembly Judiciary Committee.
[21] Passed by Assembly; passed by Senate; to Governor.

Recommendation 22. Amend Sections 1089 of the Penal Code, relating to alternate jurors, and 1098 of said code, relating to trial of defendants jointly charged, and add 1070.5 to said code to provide for the number of challenges where two or more defendants are tried jointly.

Section 1089 of the Penal Code has always presented a question as to the number of challenges and the manner of exercising the challenges to alternate jurors. It was the opinion of the commission that said section should be clarified.

Section 1098 now provides for a joint trial of defendants jointly charged unless the court shall order separate trials as to one or more of such defendants. The latter portion of the section has to do with the number and exercise of challenges in joint trials. It was the opinion of the commission that the subject matter of said section dealing with the number of challenges where two or more defendants are jointly tried should be deleted from Section 1098 and re-enacted as Section 1070.5.

In order to give effect to these objects the commission has introduced Assembly Bill 2587 [22] which, as amended, provides as follows:

An act to amend Sections 1089 and 1098 and to add Section 1070.5 to the Penal Code, relating to alternate jurors and the number of challenges in criminal cases.

The people of the State of California do enact as follows:

SECTION 1. Section 1089 of the Penal Code is amended to read:

1089. Whenever, in the opinion of a judge of a superior court about to try a defendant against whom has been filed any indictment or information for a felony, the trial is likely to be a protracted one, the court may cause an entry to that effect to be made in the minutes of the court, and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

Such alternate jurors must be drawn from the same source, and in the same manner, and have the same qualifications as the jurors already sworn, and be subject to the same examination and challenges; provided, that the prosecution and the defendant shall each be entitled to as many peremptory challenges to such alternate jurors as there are alternate jurors called. When two or more defendants are tried jointly each defendant shall be entitled to as many peremptory challenges to such alternate jurors as there are alternate jurors called. The prosecution shall be entitled to additional peremptory challenges equal to the number of all the additional separate challenges allowed the defendant or defendants to such alternate jurors.

Such alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and must attend at all times upon the trial of the cause in company with the other jurors; and for a failure so to do are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff during the trial of the cause, such alternate jurors shall also be kept in confinement with the

[22] Passed by Assembly; passed by Senate; to Governor.

other jurors; and upon final submission of the case to the jury such alternate jurors shall be kept in the custody of the sheriff and shall not be discharged until the original jurors are discharged, except as hereinafter provided.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his duty, or if a juror requests a discharge and good cause appears therefor, the court may order him to be discharged and draw the name of an alternate, who shall then take his place in the jury box, and be subject to the same rules and regulations as though he had been selected as one of the original jurors.

SEC. 2. Section 1098 of the Penal Code is amended to read:

1098. When two or more defendants are jointly charged with any public offense, whether felony or misdemeanor, they must be tried jointly, unless the court order separate trials. In ordering separate trials, the court in its discretion may order a separate trial as to one or more defendants, and a joint trial as to the others, or may order any number of the defendants to be tried at one trial, and any number of the others at different trials, or may order a separate trial for each defendant.

SEC. 3. Section 1070.5 is added to the Penal Code, to read:

1070.5. When two or more defendants are jointly tried for any public offense, whether felony or misdemeanor, the State and the defendants shall be entitled to the number of challenges prescribed by Section 1070 of this code, which challenges on the part of the defendants must be exercised jointly. Each defendant shall also be entitled to five additional challenges which may be exercised separately; the State shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

Recommendation 23. Amend Sections 1123 and 1140 and repeal Section 1139 of the Penal Code, relating to discharge of jurors.

Section 1123 of the Penal Code now provides for the discharge of a juror if he becomes sick but makes no provision for his discharge if for any other reason he becomes incapable of properly discharging his duty. Situations occur where it is desirable to discharge a juror for other reasons (e.g. *People* v. *Burns* (1948) 84 Cal. App. (2d) 18).

The commission has proposed the amendment of said section in Assembly Bill 2588.[23] The amendment there proposed would clear the way for the repeal of Section 1139, which would then be repetitious, and require that Section 1140 be similarly amended to conform to the new Section 1123. The proposed legislation follows:

An act to amend Sections 1123 and 1140 and to repeal Section 1139 of the Penal Code, relating to discharge of jurors.

The people of the State of California do enact as follows:

SECTION 1. Section 1123 of the Penal Code is amended to read:

1123. If before the jury has returned its verdict into court, a juror becomes sick or upon other good cause shown to the court is found to be unable to perform his duty, the court may order him to be discharged. If any alternate jurors have been selected as provided by law, one of them shall then be designated by the court to take the place of the juror so discharged. If, after all alternate jurors have been made regular jurors or if there be no alternate juror, a juror becomes sick or otherwise unable to perform his duty and has been discharged by the court as provided herein, the jury shall be discharged and a new jury then or afterwards impaneled, and the cause may be again tried.

[23] Passed by Assembly; passed by Senate; to Governor.

SEC. 2. Section 1139 of the Penal Code is repealed.

SEC. 3. Section 1140 of the Penal Code is amended to read:

1140. Except as provided by law, the jury cannot be discharged after the cause is submitted to them until they have agreed upon their verdict and rendered it in open court, unless by consent of both parties, entered upon the minutes, or unless, at the expiration of such time as the court may deem proper, it satisfactorily appears that there is no reasonable probability that the jury can agree.

Recommendation 24. Amend Section 1181 of the Penal Code, relating to grounds for new trial.

At the present time a trial judge on the hearing of a motion for a new trial is authorized in a proper case, in lieu of granting said motion, to modify the verdict so as to reduce the degree of the offense of which the defendant stands convicted but has no authority to change or modify the punishment in those cases in which the fixing of the punishment is part of the verdict. If such authority were vested in the trial court it is believed that in certain circumstances a new trial of the entire case might be avoided.

The commission recommended that Section 1181 of the Penal Code be amended as now set forth in Assembly Bill 2594,[24] which, as amended, reads as follows:

An act to amend Section 1181 of the Penal Code, relating to new trials.

The people of the State of California do enact as follows:

SECTION 1. Section 1181 of the Penal Code is hereby amended to read as follows:

1181. When a verdict has been rendered or a finding made against the defendant, the court may, upon his application, grant a new trial, in the following cases only:

1. When the trial has been had in his absence, except in cases where the trial may lawfully proceed in his absence;

2. When the jury has received any evidence out of court, other than that resulting from a view of the premises or of personal property;

3. When the jury has separated without leave of the court after retiring to deliberate upon their verdict, or been guilty of any misconduct by which a fair and due consideration of the case has been prevented;

4. When the verdict has been decided by lot, or by any means other than a fair expression of opinion on the part of all the jurors;

5. When the court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial, and when the district attorney or other counsel prosecuting the case has been guilty of prejudicial misconduct during the trial thereof before a jury;

[24] Placed on Assembly inactive file.

6. When the verdict or finding is contrary to law or evidence, but if the evidence shows the defendant to be not guilty of the degree of the crime of which he was convicted, but guilty of a lesser degree thereof, or of a lesser crime included therein, the court may modify the verdict, finding or judgment accordingly without granting or ordering a new trial, and this power shall extend to any court to which the cause may be appealed;

7. When the verdict or finding is contrary to law or evidence, but in any case wherein authority is vested by statute in the trial court or jury to recommend or determine as a part of its verdict or finding the punishment to be imposed, the court may modify such verdict or finding by imposing the lesser punishment without granting or ordering a new trial, and this power shall extend to any court to which the case may be appealed.

8. When new evidence is discovered material to the defendant, and which he could not, with reasonable diligence, have discovered and produced at the trial. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

Recommendation 25. Amend Section 1260 of the Penal Code, relating to the authority of appellate courts to reverse, affirm or modify the judgment.

In conformity with the recommended amendment in the preceding proposal, and in order that the appellate court shall have the same power as it is proposed to give to the trial court, the commission recommended that Section 1260 of the Penal Code be amended as now set forth in Assembly Bill 2575,[25] which reads as follows:

An act to amend Section 1260 of the Penal Code, relating to appeals.

The people of the State of California do enact as follows:

SECTION 1. Section 1260 of the Penal Code is amended to read:

1260. The court may reverse, affirm, or modify a judgment or order appealed from, or reduce the degree of the offense or the punishment imposed, and may set aside, affirm, or modify any or all of the proceedings subsequent to, or dependent upon, such judgment or order, and may, if proper, order a new trial.

Recommendation 26. Amend Section 1238 of the Penal Code, relating to decisions from which the people may appeal.

Since the commission has proposed that Section 1181 be amended to give to the trial judge the right to reduce the punishment in those cases where the fixing of punishment is part of the verdict, it is recommended that the people should have the right to appeal from any order reducing

[25] Passed by Assembly; passed by Senate; to Governor.

such punishment. To accomplish that purpose the commission recommended that Section 1238 of the Penal Code be amended as now set forth in Assembly Bill 2598,[26] as amended, which reads as follows:

An act to amend Section 1238 of the Penal Code, relating to the taking of appeals by the people.

The people of the State of California do enact as follows:

SECTION 1. Section 1238 of the Penal Code is amended to read:

1238. An appeal may be taken by the people:

1. From an order setting aside the indictment, information, or complaint;

2. From a judgment for the defendant on a demurrer to the indictment, accusation or information;

3. From an order granting a new trial;

4. From an order arresting judgment;

5. From an order made after judgment, affecting the substantial rights of the people;

6. From an order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed.

Recommendation 27. Amend Section 1335 of the Penal Code, relating to procedure for conditional examination.

Section 1335 of the Penal Code provides:

> "1335. When a defendant has been held to answer a charge for a public offense, he in all cases, and the people in cases other than of homicide, may, either before or after an indictment or information, have witnesses examined conditionally in his or their behalf, as prescribed in this chapter."

The commission believes that the right to examine a witness conditionally ought to be given to both parties at any time after a defendant has been charged with an offense triable in the superior court if the defendant has been fully informed of his right to counsel. Assembly Bill 2563[27] reads as follows:

An act to amend Section 1335 of the Penal Code, relating to conditional examination of witnesses.

The people of the State of California do enact as follows:

SECTION 1. Section 1335 of the Penal Code is amended to read:

1335. When a defendant has been charged with a public offense triable in the superior court, he in all cases, and the people in cases other than those for which the punishment may be death, may, if the defendant has been fully informed of his right to counsel as provided by law, have witnesses examined conditionally in his or their behalf, as prescribed in this chapter.

[26] Tabled by Assembly Judiciary Committee.
[27] Passed by Assembly; re-referred to Senate Judiciary Committee.

Recommendation 28. Amend Section 1338 of the Penal Code, relating to notice for conditional examination of witness.

Section 1338 of the Penal Code provides:

"1338. The application may be made to the court or a judge thereof, and must be made upon three days' notice to the opposite party."

The commission was of the opinion that the three-day notice period presently provided for in said section was insufficient and therefore recommended that it be extended to ten days, which might be lessened for good cause shown.

The commission recommended that said section be amended to read as set forth in Assembly Bill 2558 [28] which follows:

An act to amend Section 1338 of the Penal Code, relating to notice of conditional examination of witnesses.

The people of the State of California do enact as follows:

SECTION 1. Section 1338 of the Penal Code is amended to read:

1338. The application may be made to the court or a judge thereof, and must be made upon 10 days' notice to the opposite party, unless on good cause shown the court or judge lessens the period of notice.

Recommendation 29. Amend Section 1476 of the Penal Code, relating to writs of habeas corpus.

In order that the day and hour when a petition for habeas corpus was presented to the court may be readily determined, the commission recommended that Section 1476 of the Penal Code be amended as now set forth in Assembly Bill 2568 [29] which reads as follows:

An act to amend Section 1476 of the Penal Code, relating to writs of habeas corpus, and the manner of indicating presentation thereof and the action of the court thereon.

The people of the State of California do enact as follows:

SECTION 1. Section 1476 of the Penal Code is amended to read:

1476. Any court or judge authorized to grant the writ, to whom a petition therefor is presented, must endorse upon the petition the hour and date of its presentation and the hour and date of the granting or denial of the writ, and must, if it appear that the writ ought to issue, grant the same without delay; and if the person by or upon whose behalf the application for the writ is made be detained upon a criminal charge, may admit him to bail, if the offense is bailable, pending the determination of the proceeding.

Recommendation 30. Amend Section 1506 of the Penal Code, relating to appeals in habeas corpus cases.

The present law permits an appeal to the district court of appeal by the people from the final order of the superior court made upon the return of a writ of habeas corpus discharging a defendant after his conviction in all cases prosecuted by indictment or information. There are many cases where a defendant charged with a misdemeanor is discharged

[28] Passed by Assembly; passed by Senate; to Governor.
[29] Passed by Assembly; passed by Senate; to Governor.

on a writ of habeas corpus in which the people would like an opportunity to test the constitutionality of a city or county ordinance.

The commission recommended that Section 1506 of the Penal Code be amended as now set forth in Assembly Bill 2595,[30] as amended, which reads as follows:

An act to amend Section 1506 of the Penal Code, relating to appeals in habeas corpus cases.

The people of the State of California do enact as follows:

SECTION 1. Section 1506 of the Penal Code is amended to read:

1506. An appeal may be taken to the district court of appeal by the people from a final order of a superior court made upon the return of a writ of habeas corpus discharging a defendant in all criminal cases, excepting criminal cases where judgment of death has been rendered, and in such cases to the Supreme Court; and in all criminal cases where an application for a writ of habeas corpus has been heard and determined in a district court of appeal, either the defendant or the people may apply for a hearing in the Supreme Court. Such appeal shall be taken and such application for hearing in the Supreme Court shall be made in accordance with rules to be laid down by the Judicial Council. If the people appeal, or petition for hearing in either the district court of appeal or the Supreme Court, the defendant shall not, in any case in which the judgment of conviction has become final, be discharged from custody pending final decision upon the appeal or petition for hearing and he must, in such cases, be retaken into custody if he has been discharged; provided, however, that in bailable cases the defendant may be admitted to bail, in the discretion of the judge, pending decision of the appeal or petition for hearing.

Recommendation 31. Amend Section 3704 of the Penal Code, relating to procedure in cases where one under sentence of death has been found presently insane and later is restored to sanity.

In view of the recent decision of the United States Supreme Court in *Phyle* v. *Duffy* (1948) 334 U.S. 431 in which the court implied that an *ex parte* certification by a superintendent of a state hospital that an insane convicted defendant has been restored to sanity would not fulfill the requirements of due process of law if no judicial hearing were thereafter available, the commission has drafted and presented to the Legislature Assembly Bill 2567,[31] which reads:

An act to amend Section 3704 of the Penal Code, relating to insane persons sentenced to death.

The people of the State of California do enact as follows:

SECTION 1. Section 3704 of the Penal Code is amended to read:

3704. If it is found that the defendant is sane, the warden must proceed to execute the judgment as specified in the warrant; if it is found that the defendant is insane, the warden must suspend the execution and transmit a certified copy of the order mentioned in the last section to the Governor, and deliver the defendant, together with a certified copy of such order, to the medical superintendent of the hospital

[30] Passed by Assembly; tabled by Senate Judiciary Committee.
[31] Passed by Assembly; passed by Senate; to Governor.

named in such order. When the defendant recovers his sanity, the superintendent of such hospital must certify that fact to the judge of the superior court from which the defendant was committed as insane, who must thereupon fix a date upon which, after ten days' written notice to the defendant and the district attorney of the county from which the defendant was originally sentenced and the district attorney of the county from which he was committed to the state hospital, a hearing shall be had before said judge sitting without a jury to determine whether or not the defendant has in fact recovered his sanity. If the defendant appears without counsel, the court shall appoint counsel to represent him at said hearing. If the judge should determine that the defendant has recovered his sanity he must certify that fact to the Governor, who must thereupon issue to the warden his warrant appointing a day for the execution of the judgment, and the warden shall thereupon return the defendant to the state prison pending the execution of the judgment. If, however, the judge should determine that the defendant has not recovered his sanity he shall direct the return of the defendant to a state hospital for the insane, to be there kept in safe confinement until his sanity is restored.

Recommendation 32. Amend Section 4550 of the Penal Code, relating to rescues and the punishment therefor.

Section 4550 of the Penal Code makes it a public offense for any person to rescue any prisoner from any prison or jail and provides that the punishment for such offense is dependent upon the seriousness of the offense of which the rescued person stands charged or convicted.

The commission recommended that Section 4550 of the Penal Code be amended as now set forth in Assembly Bill 2566 [32] which reads as follows:

An act to amend Section 4550 of the Penal Code, relating to rescues.

The people of the State of California do enact as follows:

SECTION 1. Section 4550 of the Penal Code is amended to read:

4550. Every person who rescues or attempts to rescue, or aids another person in rescuing or attempting to rescue any prisoner from any prison, or prison road camp or any jail or county road camp, or from any officer or person having him in lawful custody, is punishable as follows:

1. If such prisoner was in custody upon a conviction of a felony punishable with death: By imprisonment in the state prison not less than one nor more than fourteen years;

2. If such prisoner was in custody otherwise than as specified in subsection 1 hereof: By imprisonment in the state prison not to exceed five years, or by imprisonment in the county jail not to exceed one year.

Recommendation 33. Add Section 5002 to the Welfare and Institutions Code, to provide that in proceedings under said code for commitment of persons to state hospitals the privilege of physician and patient concerning confidential communications shall not apply.

To facilitate the acquiring of information necessary to bring about proper treatment of a patient under the provisions of the Welfare and

[32] Passed by Assembly; passed by Senate; to Governor.

Institutions Code and to make available the diagnosis and prognosis of the physicians who have been treating said patient, the commission recommended that Section 5002 be added to the Welfare and Institutions Code as now set forth in Assembly Bill 2559 [33] which reads as follows:

An act to add Section 5002 to the Welfare and Institutions Code, relating to examination of witnesses.

The people of the State of California do enact as follows:

SECTION 1. Section 5002 is added to the Welfare and Institutions Code, to read:

5002. Subsection 4 of Section 1881 of the Code of Civil Procedure does not apply to proceedings under Division 6 of the Welfare and Institutions Code.

[33] Placed on Assembly inactive file.

PART II

Recommendations for Proposed Changes in Criminal Procedure
in
Inferior and Superior Courts of the State of California

Submitted by

THE HONORABLE HARTLEY SHAW
Presiding Judge, Appellate Department Superior Court
County of Los Angeles

Revised and Amended by the Commission, Incorporated in Assembly Bill 2599, and Presented to the 1949 Legislature

Recommendations for Proposed Changes in Criminal Procedure in Inferior and Superior Courts of the State of California

FOREWORD

The principal purpose of these changes, which have been set forth in Assembly Bill 2599, is that expressed in proposed Section 690, to make all the procedural provisions of the code applicable to all proceedings in all courts, except where this is impossible or impracticable. The reason for this change is, in brief, the paucity of the provisions of the code expressly applicable to procedure in the courts below the superior courts and their inadequacy under modern conditions. Those provisions are found in one title, consisting of about forty sections, while there are nearly four hundred sections applicable to procedure in cases triable in the superior courts, including the provisions for prelinminary examinations. A few of the superior court provisions are repeated, sometimes with slight changes, and a few others are adopted by cross-reference, in the title on inferior court procedure. As to many others, without some of which business could hardly proceed, those dealing with the subject are left to decide, as best they can, whether such sections are applicable in the inferior courts.

At one time the Supreme Court, while deciding only that Section 1205 does not apply to the inferior courts, intimated further that titles including Sections 777 to 1230 do not so apply. (*In re Kennerly* (1923), 190 Cal. 774, 775.) A number of individual sections in these titles (Secs. 950, 951, 952, 959, 977, 1043, 1148, 1193, 1206, 1207, 1214, 1382) have been expressly held inapplicable in inferior courts. On the other hand Sections 1385 and 1387 have been held applicable there. Many other sections are often so applied. Thus it is assumed that Sections 1096 and 1096a regarding reasonable doubt, Section 1111 requiring corroboration of an accomplice, Section 1110 regarding proof of a false pretense and Section 1102 adopting rules of evidence for criminal actions, are to be applied in the inferior courts, but the matter is left in some doubt by the intimation of the *Kennerly* case to the contrary, and the lack of any cross-reference to them.

This situation was perhaps not of much importance when the code was adopted in 1872, for the most numerous inferior courts then were justices' courts and their criminal jurisdiction was limited to misdemeanors in which the punishment did not exceed a fine of $500 or imprisonment of six months. But now we have several municipal courts and many Class A justices' courts, all of which have jurisdiction of all misdemeanors. (Penal Code, Secs. 1425, 1462.) Some of these misdemeanors are serious offenses, for which the punishment may be $5,000 or one year in jail (some limited to one year only by Sec. 19a). See Sections 143, 154, 174, 180, 249, 258, 266c, 529 and 531a. For such offenses a better and more certain procedure is needed than is now provided.

Section 690 as proposed will not, alone, accomplish the intended purpose, for very many provisions which should be of general application

are limited by their use of the term "indictment or information," or by some other words which Section 690 will not overcome, to superior courts. All these sections are therefore amended to remove the limitations and in some cases further amendments are made to improve them.

There are other proposed amendments which have no relation to the general purpose above stated. The reasons for them are set forth in notes to the individual sections amended. In framing the last mentioned amendments no attempt was made to cover the whole field of possible amendments of sections which could be applied to all courts without change.

References in the notes to sections by number are to sections of the Penal Code unless otherwise stated.

HARTLEY SHAW, Judge
Appellate Department, Superior Court
County of Los Angeles

Assembly Bill 2599, together with author's annotations, follows:

SECTION 1. Section 671 of the Penal Code is amended to read:

671. Whenever any person is declared punishable for a crime by imprisonment in the state prison for a term not less than any specified number of years, and no limit to the duration of such imprisonment is declared, punishment of such offender shall be imprisonment during his natural life subject to the provisions of Part 3 of this code.

NOTE. This section as it now reads is inconsistent with the indeterminate sentence law and the proposed amendment harmonizes them. Apparently the necessity of changing this section was overlooked when that law was adopted.

SEC. 2. Section 689 of said code is amended to read:

689. No person can be convicted of a public offense unless by verdict of a jury, accepted and recorded by the court, by a finding of the court in a case where a jury has been waived, or by a plea of guilty.

NOTE. The provision for judgment on demurer is omitted. By other proposed amendments the substance of Section 1011 has been placed in Section 1004 and it is proposed to repeal Section 1011, so the present cross-reference cannot stand. It is doubtful if Section 1011 does provide for a judgment on demurrer. It says nothing of such a judgment. The effect of Section 1024 would seem to be that, if the defendant refuses to plead after demurrer, a plea of not guilty is entered, and this is made more certain in the proposed amendment of Section 1024 by omitting the reference to "demurrer or plea." There seems no particular reason for such a judgment. If the defendant is raising only a question of law, he can still take advantage of it after a plea and there is no reason why he should not make one.

SEC. 3. Section 690 is added to said code, to read:

690. The provisions of Part 2 of this code shall apply to all criminal actions and proceedings in all courts, except where jurisdictional limitations or the nature of specific provisions prevent, or special provision is made for particular courts or proceedings.

NOTE. This section is patterned after Section 34 C. C. P. and its purpose is the same as was accomplished by that section; that is, to make possible the application to proceedings in inferior courts of many code provisions now applicable only to superior court proceedings but which should apply also in the other courts, without the necessity of incorporating them or cross-referring to them in the one title of the code which is especially applicable to proceedings in such other courts. The reasons for doing so are discussed in the preliminary note.

SEC. 4. Section 691 is added to said code, to read:

691. Definitions. The following words have in Part 2 of this code the signification attached to them in this section, unless it is otherwise apparent from the context:

1. The words "inferior court" or "inferior courts" include municipal courts, justices' courts, city courts, police courts, police judges' courts, and all courts other than superior courts, having jurisdiction to try misdemeanor charges.

2. The words "competent court" when used with reference to the jurisdiction over any public offense, mean any court the subject matter jurisdiction of which includes the offense so mentioned.

3. The words "jurisdictional territory" when used with reference to a court, mean the city and county, county, city, township or other limited territory over which the criminal jurisdiction of such court extends, as provided by law, and in case of a superior court mean the county in which such court sits.

4. The words "accusatory pleading" include an indictment, an information, an accusation, a complaint filed with a magistrate charging a public offense of which the superior court has original trial jurisdiction, and a complaint filed with an inferior court charging a public offense of which such inferior court has original trial jurisdiction.

5. The words "prosecuting attorney" include any attorney, whether designated as district attorney, city attorney, city prosecutor, prosecuting attorney, or by any other title, having by law the right or duty to prosecute, in behalf of the people, any charge of a public offense.

6. The word "county" includes county, city and county, and city.

NOTE. These definitions are intended to facilitate the purpose of Section 690 and to avoid the use of lengthy groups of words in various sections which must be amended to accomplish that purpose. Subdivisions 2 and 3 are especially useful in the sections fixing local jurisdiction (Sections 777-795). Subdivision 4 facilitates greatly the amendment of sections relating to pleading which should be of general application, but are now limited to superior courts by their use of the words "indictment" and "information". See Sections 950, 953, 957, 958, 961, 964, 967, 968, 970, and others.

SEC. 5. The heading of Title 2, Part 2 of said code is repealed.

NOTE. All the sections in this title were repealed in 1943 (Stats. 1943, p. 1010, Government Code, Section 500003) but the heading was left untouched. It is to be repealed to clear the way for enactment of a new title with a different heading.

SEC. 6. A new Title 2, consisting of Sections 737 to 740, inclusive, is added to Part 2 of said code, to read:

TITLE 2. MODE OF PROSECUTION

737. All public offenses triable in the superior court must be prosecuted therein by indictment or information, except as provided in the Government Code, the Juvenile Court Law and Section 859a of this code.

NOTE. This new title is inserted here to gather in one place, at the beginning of the procedural matter, those provisions defining the general mode of procedure. Section 737 as here proposed is taken from present Section 888. Word "therein" inserted for greater accuracy, since the preliminary examination which must precede an information is a part of the prosecution, but is not in the superior court and not by information. Reference to Government Code instead of "next section" (referring to Section 889), because the matters covered by Section 889 are now in the Government Code. Reference to Juvenile Court Law is added to avoid conflict.

738. Before an information is filed there must be a preliminary examination of the case against the defendant and an order holding him to answer made under Section 872. The proceeding for a preliminary examination must be commenced by written complaint, as provided elsewhere in this code.

NOTE. This is a new section merely inserted here for a convenient reference. It states the general effect of other sections such as 806, 811 and 859, and of Section 8, Article I of the California Constitution. See proposed amendment of Section 806 for detailed provisions regarding complaint.

739. When a defendant has been examined and committed, as provided in Section 872, it shall be the duty of the district attorney of the county in which the offense is triable to file in the superior court of that county within fifteen days after the commitment, an information against the defendant which may charge the defendant with either the offense or offenses named in the order of commitment or any offense or offenses shown by the evidence taken before the magistrate to have been committed. The information shall be in the name of the people of the State of California and subscribed by the district attorney.

NOTE. This is the substance of Section 809, with slight verbal changes, placed here as a more logical place for it. It bears no relation to the other contents of the chapter in which it now appears. "Of this code" omitted from first sentence of Section 809 because unnecessary under Section 7, subdivision 20. Words "such offense" in first sentence of Section 809 are omitted because, if they refer to the offense named in the commitment, as is most likely, they are inconsistent with the last sentence. Words prescribing the form of an information are omitted because fully covered by Sections 950, 951, and 959.

740. Except as otherwise provided by law, all public offenses triable in the inferior courts must be prosecuted by written complaint under oath subscribed by the complainant. Such complaint may be verified on information and belief.

NOTE. This is to the same effect as the first part of Section 1426, placed here for convenient reference. See note to Section 737. Requirements that complaint be written and subscribed by complainant are not in Section 1426, but conform to present practice, as far as known, and seem reasonable. All other provisions of Section 1426 regarding form and contents of complaint are omitted here because fully covered by the chapter on Rules of Pleading (Sections 848, et seq.), which will be made applicable by proposed Section 690. The term "inferior courts" is used because defined by proposed Section 691. Exception at beginning made in view of provisions of Vehicle Code, Section 739.1 for using notice to appear as the complaint.

Provision for verification on information and belief inserted to conform to decision in *Ex parte Blake* (1909) 155 Cal. 586.

SEC. 7. The heading of Title 3, Part 2 of said code is amended to read:

TITLE 3. ADDITIONAL PROVISIONS REGARDING CRIMINAL PROCEDURE

SEC. 8. Section 777 of said code is amended to read:

777. Every person is liable to punishment by the laws of this State, for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States; and except as otherwise provided by law the jurisdiction of every public offense is in any competent court within the jurisdictional territory of which it is committed.

NOTE. The proviso is omitted and placed in a separate section, like all other provisions in this chapter which give jurisdiction to courts not at the place of the offense. "By law" substituted for "herein" because laws other than the Penal Code may fix jurisdiction. No research has been made to ascertain if there are now such laws.

This chapter was probably originally intended to apply only to superior courts. Since their jurisdiction is countywide but ordinarily extends no farther (Constitution Article VI, Section 5), the references to counties as the criteria of jurisdiction caused no confusion; but on applying the chapter to all courts, the situation becomes different. The jurisdiction of justices' courts is not countywide at present (*Antilla* v. *Justice's Court* (1930), 209 Cal. 621) nor is that of municipal courts in all cases (Section 1462), and police courts are usually limited to their own cities. Hence the general provision of this section concerning jurisdiction is rewritten to refer to courts instead of counties and thus facilitate its application to all courts as contemplated by new Section 690. Similar changes are made in other sections of this chapter, for the same reason. See definitions of "competent court" and "jurisdictional territory" in proposed Section 691. Among the inferior courts there will in many cases be more than one competent court, since the jurisdiction of municipal courts is partly concurrent with that of justices' courts. (Section 1462). Hence the word "any" is prefixed to the term "competent court."

SEC. 9. Section 777a is added to Chapter 1, Title 3, Part 2 of said code, to read:

777a. If a parent violates the provisions of Section 270 of this code the jurisdiction of such offense is in any competent court of either the jurisdictional territory in which the minor child is cared for or in which such parent is apprehended.

NOTE. This is the proviso now in Section 777, amplified by omission of words which limit its application to children under the care of the juvenile court. As amended it will apply to all children. For use of the terms "competent court" and "jurisdictional territory" see proposed Section 691 and note to Section 777.

SEC. 10. Section 778 of said code is amended to read:

778. When the commission of a public offense, commenced without the State, is consummated within its boundaries, the defendant is liable to punishment therefor in this State, though he was out of the State at the time of the commission of the offense charged. If he consummated it in this State, through the intervention of an innocent or guilty agent, or any other means proceeding directly from himself, in such case the jurisdiction of such offense is in any competent court within the jurisdictional territory of which the offense is consummated.

NOTE. This change is in the designation of the jurisdiction in the last sentence. See proposed Section 691 for definitions of terms used. See note to Section 777 for reason for change.

SEC. 11. Section 781 of said code is amended to read:

781. When a public offense is committed in part in one jurisdictional territory and in part in another, or the acts or effects thereof constituting or requisite to the consummation of the offense occur in two or more jurisdictional territories, the jurisdiction of such offense is in any competent court within either jurisdictional territory.

NOTE. The amendment is to change counties to courts. See proposed Section 691 for definitions of terms used, and note to Section 777.

SEC. 12. Section 782 of said code is amended to read:

782. When a public offense is committed on the boundary of two or more jurisdictional territories, or within five hundred yards thereof, the jurisdiction of such offense is in any competent court within either jurisdictional territory.

NOTE. Amended to change county to court. See Section 691 for definitions, and note to Section 777.

SEC. 13. Section 783 of said code is amended to read:

783. When a public offense is committed in this State, on board a vessel navigating a river, bay, slough, lake, or canal, or lying therein, in the prosecution of its voyage, or on a railroad train or car, motor vehicle, common carrier transporting passengers or on an aircraft prosecuting its trip, the jurisdiction is in any competent court, through, on, or over the jurisdictional territory of which the vessel, train, car, motor vehicle, common carrier or aircraft passes in the course of its voyage or trip, or in the jurisdictional territory of which the voyage or trip terminates.

NOTE. Amended to substitute courts for counties. See note to Section 777. Several clauses combined for brevity. Eliminates the proviso regarding aircraft because it seems difficult of practical application. "Motor vehicle" added, because similar to the other means of transportation in possible doubt as to the exact place of the crime.

SEC. 14. Section 784 of said code is amended to read:

784. The jurisdiction of a criminal action:

1. For forcibly and without lawful authority seizing and confining another, or inveigling or kidnaping him, with intent, against his will, to cause him to be secretly confined or imprisoned in this State, or to be sent out of the State, or from one county to another, or to be sold as a slave, or in any way held to service;

2. For decoying, taking, or enticing away any minor child, with intent to detain and conceal it from its parent, guardian, or other person having the lawful charge of the child;

3. For inveigling, enticing, or taking away any female for the purpose of concubinage or prostitution;

Is in any competent court within the jurisdictional territory in which the offense was committed, or in the jurisdictional territory out of which the person upon whom the offense was committed was taken or within the jurisdictional territory in which an act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense, or in abetting the parties concerned therein.

NOTE. The change is simply to place jurisdiction in courts instead of counties. See note to Section 777 for reasons for change.

SEC. 15. Section 784a of said code is amended to read:

784a. The jurisdiction of a criminal action for slander which is uttered into, or is communicated through or by any radio, or connected radios or any other mechanical or other devices, is in any competent court within the jurisdictional territory of which the slander is so uttered, or in any competent court within the jurisdictional territory of which the person slandered resided, or the educational, literary, social, fraternal, benevolent or religious corporation, association or organization slandered was located, at the time of the utterance of the alleged slanderous words.

NOTE. County changed to court, as in other cases. See Section 691 for definitions and note to Section 777. This offense is a misdemeanor (Section 258), triable in municipal or Class A justices' courts, so the lines of trial jurisdiction are not always co-extensive with a county. (Section 1462.)

SEC. 16. Section 785 of said code is amended to read:

785. When the offense of incest is committed in the jurisdictional territory of one competent court and the defendant is apprehended in the jurisdictional territory of another competent court the jurisdiction is in either court.

When the offense of bigamy is committed, judisdiction is in the competent court of either the jurisdictional territory in which the marriage took place or in which cohabitation occurred or in which the defendant was apprehended.

NOTE. Amended to place jurisdiction in courts instead of counties. See note to Section 777. Extends jurisdiction in bigamy cases to jurisdictional territory in which marriage took place.

SEC. 17. Section 786 of said code is amended to read:

786. When property taken in one jurisdictional territory by burglary, robbery, theft, or embezzlement has been brought into another, the jurisdiction of the offense is in any competent court within either jurisdictional territory. But if at any time before the trial of the defendant begins in the court of the jurisdictional territory into which the property was brought a prosecution against him is commenced in the court of the jurisdictional territory in which the property was taken, the sheriff, marshal, constable or other proper officer of the former court must, upon demand, deliver him to the sheriff or other proper officer of the latter court.

NOTE. County changed to court as the criterion of jurisdiction. See Section 691 for definitions and note to Section 777. Second sentence changed to fit the new terminology, and time for transfer of custody of defendant changed to "before trial" instead of "before conviction." After trial started defendant would be in jeopardy and could not be tried again unless he waived the objection. Under modern conditions this second sentence seems of doubtful utility, and perhaps it would be better to omit it altogether.

SEC. 18. Section 789 of said code is amended to read:

789. The jurisdiction of a criminal action for stealing or embezzling, in any other state, the property of another, or receiving it knowing it to have been stolen or embezzled, and bringing the same into this State, is in any competent court into or through the jurisdictional territory of which such stolen or embezzled property has been brought.

NOTE. County changed to court as the criterion of jurisdiction. See Section 691 for definitions, and note to Section 777.

SEC. 19. Section 791 of said code is amended to read:

791. In the case of an accessory, as defined in Section 32, in the commission of a public offense, the jurisdiction is in any competent court within the jurisdictional territory of which the offense of the accessory was committed, notwithstanding the principal offense was committed in another jurisdictional territory.

NOTE. County changed to court as the criterion of jurisdiction. See Section 691 for definitions, and note to Section 777.

SEC. 20. Section 792 of said code is amended to read:

792. The jurisdiction of a criminal action against a principal in the commission of a public offense, when such principal is not present at the commission of the offense is in the same court it would be under this code if he were so present and aiding and abetting therein.

NOTE. "Court" substituted for "county." See note to Section 777. Word "principal" omitted before "offense" at the second appearance of the latter. It seems unnecessary and confusing there.

SEC. 21. Section 794 of said code is amended to read:

794. Where an offense is within the jurisdiction of two or more courts, a conviction or acquittal thereof in one court is a bar to a prosecution therefor in another.

NOTE. Amended to change county to court twice. See note to Section 777. This section hardly seems necessary, as the constitutional provision against double jeopardy would operate in such a case and a former conviction or acquittal may be pleaded as a defense under Section 1016 and is a bar under Section 1023, neither of which excludes a conviction or acquittal in some other county or court.

SEC. 22. Section 795 of said code is amended to read:

795. The jurisdiction of a violation of Sections 412, 413, or 414, or a conspiracy to violate any of said sections, is in any competent court within the jurisdictional territory of which:

First. Any act is done towards the commission of the offense; or,

Second. The offender passed, whether into, out of, or through it, to commit the offense; or,

Third. The offender is arrested.

NOTE. County changed to court, with change of wording to facilitate this. See Section 691 for definitions and note to Section 777. References to Penal Code omitted because of Section 7, subdivision 20.

SEC. 23. Section 802 of said code is amended to read:

802. If, when or after the offense is committed, the defendant is out of the State, an indictment may be found, a complaint or an information filed or a case certified to the superior court, in any case originally triable in the superior court, or a complaint may be filed, in any case originally triable in any other court, within the term limited by law after his coming within the State; and no time during which the defendant is not an inhabitant of, or usually resident within this State, is a part of any limitation of the time for commencing a criminal action.

NOTE. Amended to extend the exception in the first part of the section to cases where the defendant leaves the State after commission of the crime, to apply this exception to cases triable in all courts, and to refer generally to any law limiting time for commencing criminal actions.

SEC. 24. The heading of Chapter 3, Title 3, Part 2 of said code is amended to read:

CHAPTER 3. COMPLAINTS BEFORE MAGISTRATES

SEC. 25. Section 806 of said code is amended to read:

806. A proceeding for the examination before a magistrate of a person on a charge of an offense originally triable in a superior court must be commenced by written complaint under oath subscribed by the complainant and filed with the magistrate. Such complaint may be verified on information and belief. When the complaint is used as a pleading to which the defendant pleads guilty under Section 859a of this code, the complaint shall contain the same allegations, including the charge of prior conviction or convictions of crime, as are required for indictments and information and, wherever applicable, shall be construed and shall have substantially the same effect as provided in this code for indictments and informations.

NOTE. A new first sentence is inserted instead of the present one, for the same general purpose. (See Section 738 as proposed.) The general statement that "the complaint is", etc., in the present section is unfortunate because it seems to include the complaint on a misdemeanor charge triable in the lower courts. The real purpose of the section appears to be that embodied in the proposed amendment. The other complaints are provided for elsewhere. The second sentence of the present section, regarding contents of complaint, etc., could be omitted because in the proposed amendments it will be covered by other sections (see Section 690, definitions in Section 691 and the various sections on pleading), but is retained to avoid the necessity for such careful reading. Provision inserted for verification on information and belief, following the reasoning of *Ex parte Blake* (1909) 155 Cal. 586, that no one person may positively know all the facts of an offense, and because of the elimination of depositions by amendments of Sections 811, 812, 826, 827, 828 and 829. Of course, one who verifies without reasonable grounds will be liable in damages.

SEC. 26. Sections 809, 810, 811, and 812 of said code are repealed.

NOTE. Section 809 to be moved and inserted as Section 739 in new Title 2 of this part. It does not belong here, having no logical relation to other parts of this chapter.

NOTE. Section 810 does not logically belong in the chapter where it is, as it relates to all pleadings. It is to be moved to Chapter 2, Title 5, Part 2, which relates to rules of pleading, and renumbered as Section 973, with slight amendments.

NOTE. The procedure by deposition provided by Sections 811 and 812 is believed to be obsolete, prosecutions being commenced by complaint only. Such complaints may, by proposed amendment of Section 806, be verified on information and belief (and are in fact often so verified without the amendment), and it is hence not necessary to produce at this stage of the case all who have knowledge regarding the offense.

SEC. 27. Section 813 of said code is amended to read:

813. When a complaint is filed with a magistrate charging a public offense originally triable in the superior court of the county in which he sits, if such magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, he must issue a warrant for for the arrest of the defendant.

NOTE. Word "therefrom" now in Section 813 is indefinite and more precise statement is substituted. The magistrate may under the amendment be "satisfied" from the complaint alone, which is the usual practice. Provision also added that the warrant is for the arrest of *the defendant*.

SEC. 28. Section 814 of said code is amended to read:

814. A warrant of arrest issued under Section 813 may be in substantially the following form:

County of _____

The people of the State of California to any peace officer of said State:

Complaint on oath having this day been laid before me that the crime of _____ (designating it generally) has been committed and accusing _____ (naming defendant) thereof, you are therefore commanded forthwith to arrest the above named defendant and bring him before me at _____ (naming the place), or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ (place) this _____ day of _____ 19___.

_____ (Signature and full official title of magistrate.)

NOTE. Words purporting to define a warrant are omitted as unnecessary. They are also inaccurate for some forms of warrant (see Sections 981, 982, 1197, 1427). The only description of these other warrants is that they are "for his arrest" (Sections 979, 1195) and this is sufficient, and is put in Section 813. Name of complainant omitted from form as unnecessary. Defendant's name to be written in only once instead of twice as in present form. Warrant to be directed to "any peace officer". See Section 817 for definition of the term.

SEC. 29. Section 815 of said code is amended to read:

815. A warrant of arrest must specify the name of the defendant or, if it is unknown to the magistrate, judge or justice, the defendant may be designated therein by any name. It must also state the time of issuing it, and the city and county, county, city, town or township where it is issued and be signed by the magistrate, judge or justice issuing it with the title of his office.

NOTE. Words "judge or justice" added to fit this section to all the forms of warrant to which it may apply (see Sections 814, 1447). "Title" of office substituted for "name". Additional designations of locations made.

SEC. 30. Section 816 of said code is amended to read:

816. A warrant of arrest must be directed generally to any peace officer in the State, and may be executed by any of those officers to whom it may be delivered.

NOTE. Section 818 combined with this section. Since the insertion of words "any other magistrate" in Section 818 in 1935, the whole enumeration at the beginning of that section has become unnecessary and is omitted.

SEC. 31. Section 818 of said code is repealed.

NOTE. The effect of this section to be included in Section 816, as amended.

SEC. 32. Section 826 of said code is amended to read:

826. If on a warrant issued under Section 813 the defendant is brought before a magistrate other than the one who issued the warrant, the complaint on which the warrant was issued must be sent to that magistrate, or if it cannot be procured, a new complaint may be filed before that magistrate.

NOTE. Amended to substitute "complaint" for depositions, in view of proposed repeal of Sections 811 and 812. Reference to Section 813 inserted to limit the scope of the section to cases triable in the superior court originally.

SEC. 33. Section 827 of said code is amended to read:

827. When a complaint is filed with a magistrate of the commission of a public offense originally triable in the superior court of another county of the State than that in which he sits, but showing that the defendant is in the county where the complaint is filed, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the nearest or most accessible magistrate of the county in which the offense is triable, and the complaint must be delivered by the magistrate to the officer to whom the warrant is delivered.

NOTE. Amended to eliminate reference to depositions, in view of proposed repeal of Sections 811 and 812. The section is now impliedly limited to cases originally triable in the superior court, and this is made express because of proposed Section 690.

SEC. 34. Section 828 of said code is amended to read:

828. The officer who executes the warrant must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable, and must deliver to him the complaint and the warrant, with his return endorsed thereon, and the magistrate must then proceed in the same manner as upon a warrant issued by himself.

NOTE. Amended to substitute complaint for depositions, in view of repeal of Sections 811 and 812.

SEC. 35. Section 829 of said code is amended to read:

829. When a complaint is filed with a magistrate of the commission of a public offense triable in an inferior court of another county of the State than that in which he sits, but showing that the defendant is in the county where the complaint is filed, the officer must, upon being required by the defendant, take him before a magistrate of the county in which the warrant was issued, who must admit the defendant to bail in the amount specified in the endorsement referred to in Section 815a, and immediately transmit the warrant, complaint, and undertaking, to the clerk of the court in which the defendant is required to appear.

NOTE. Amended to substitute complaint for depositions, in view of repeal of Sections 811 and 812, and to allow defendant to give bail on a misdemeanor charge in another county than that in which the case is triable.

SEC. 36. The heading of Title 4, Part 2, of said code is amended to read:

TITLE 4. PROCEEDINGS OF THE GRAND JURY

NOTE. The repeal of Chapter 1 of this title, provided below, will leave nothing but grand jury procedure in that title.

SEC. 37. Chapter 1, Title 4, Part 2, consisting of Sections 888 to 890, inclusive, is repealed.

NOTE. Section 888 has been amended and renumbered as Section 737. Sections 889 and 890 refer to provisions of the Penal Code which have now been removed to the Government Code, Sections 3060-3073. Those sections require an accusation to be in writing and name the court in which proceedings are to be had (Government Code 3060, 3063), so Sections 889 and 890 Penal Code are unnecessary.

SEC. 38. The heading of Chapter 2, Title 4, Part 2 of said code is renumbered, to read:

CHAPTER 1. FORMATION OF THE GRAND JURY

SEC. 39. The heading of Chapter 3, Title 4, Part 2 of said code is renumbered, to read:

CHAPTER 2. POWERS AND DUTIES OF A GRAND JURY

SEC. 40. The heading of Title 5, Part 2, of said code is amended to read:

TITLE 5. THE PLEADINGS

NOTE. This title is to deal with all pleadings and the heading should be amended accordingly.

SEC. 41. The heading of Chapter 2, Title 5, Part 2 of said code is amended to read:

CHAPTER 2. RULES OF PLEADING

NOTE. Omits reference to indictment. Section 951 contains form of information also, and heading need not recite either. This chapter will apply, by virtue of proposed Section 690, to all pleadings.

SEC. 42. Section 949 of said code is amended to read:

949. The first pleading on the part of the people in the superior court is the indictment information, accusation or the complaint in any case certified to the superior court under the provisions of Section 859a

or the complaint filed in accordance with the provisions of Section 702 of the Welfare and Institutions Code. The first pleading on the part of the people in all inferior courts is the complaint except as otherwise provided by law.

NOTE. The amendment covers cases certified to the superior court on defendant's plea of guilty under Section 859a and prosecutions under the Juvenile Court Law, also accusations filed under the Government Code. Second sentence added to cover inferior courts here, in pursuance of the policy of Section 690.

SEC. 43. Section 950 of said code is amended to read:

950. The accusatory pleading must contain:

1. The title of the action, specifying the name of the court to which the same is presented, and the names of the parties;

2. A statement of the public offense or offenses charged therein.

NOTE. The change in first line is to make this section applicable to all pleadings in all courts (see definition in proposed Section 691), and will apply it to all complaints before a magistrate on felony charges. Section 806 probably has this effect in practice, since it cannot be known when a complaint is filed before a magistrate in a superior court case that the defendant will not plead guilty.

Subdivision 2 changed to eliminate provision regarding the manner of stating the offense, because that matter is now fully covered by Section 952 and other following sections.

SEC. 44. Section 953 of said code is amended to read:

953. When a defendant is charged by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being charged by the name mentioned in the accusatory pleading.

NOTE. Amended to make the section of general application.

SEC. 45. Section 954 of said code is amended to read:

954. An accusatory pleading may charge two or more different offenses connected together in their commission, or different statements of the same offense or two or more different offenses of the same class of crimes or offenses, under separate counts, and if two or more accusatory pleadings are filed in such cases in the same court, the court may order them to be consolidated. The prosecution is not required to elect between the different offenses or counts set forth in the accusatory pleading, but the defendant may be convicted of any number of the offenses charged, and each offense of which the defendant is convicted must be stated in the verdict or the finding of the court; provided, that the court in which a case is triable, in the interests of justice and for good cause shown, may in its discretion order that the different offenses or counts set forth in the accusatory pleading be tried separately or divided into two or more groups and each of said groups tried separately. An acquittal of one or more counts shall not be deemed an acquittal of any other count.

NOTE. The words "accusatory pleading" used instead of "indictment, information or complaint" in one place and "indictment or information" in others to make the provisions uniform and to apply the section to complaints before a magistrate for preliminary examination as well as those for trial before the lower courts. Words "in the same court" inserted in one place and "in which a case is triable" in another are perhaps unnecessary, but state what is the implication of the section and avoid any possibility of confusion arising from the application of the section to proceedings in all courts. Reference to finding of the court inserted to cover jury waiver cases.

SEC. 46. Section 955 of said code is amended to read:

955. The precise time at which the offense was committed need not be stated in the accusatory pleading, but it may be alleged to have been committed at any time before the finding or filing thereof, except where the time is a material ingredient in the offense.

SEC. 47. Section 957 of said code is amended to read:

957. The words used in an accusatory pleading are construed in their usual acceptance in common language, except such words and phrases as are defined by law, which are construed according to their legal meaning.

SEC. 48. Section 958 of said code is amended to read:

958. Words used in a statute to define a public offense need not be strictly pursued in the accusatory pleading, but other words conveying the same meaning may be used.

NOTE to Sections 955, 957, and 958. The change in these sections is merely in the designation of the pleading, so as to make them applicable in all courts.

SEC. 49. Section 959 of said code is amended to read:

959. The accusatory pleading is sufficient if it can be understood therefrom:

1. That it is filed in a court having authority to receive it, though the name of the court be not stated.

2. If an indictment, that it was found by a grand jury of the county in which the court was held, or if an information, that it was subscribed and presented to the court by the district attorney of the county in which the court was held.

3. If a complaint, that it is made and subscribed by some natural person and sworn to before some officer entitled to administer oaths.

4. That the defendant is named, or if his name is unknown, that he is described by a fictitious name, with a statement that his true name is to the grand jury, district attorney, or complainant, as the case may be, unknown.

5. That the offense charged therein is triable in the court in which it is filed, except in case of a complaint filed with a magistrate for the purposes of a preliminary examination.

6. That the offense was committed at some time prior to the filing of the accusatory pleading.

NOTE. Name of the pleading changed to cover all courts. Subdivision 3 added to cover requirement of Section 1426 (proposed Section 740) that a complaint be under oath, to require subscription by the complainant (now usual but not required), and to state expressly some other matters now implied. There seems no present requirement that a complaint before a magistrate (in a case triable in the superior court) as distinguished from a "deposition" be under oath (see Sections 806, 811, 812). This provision and Section 806 (as proposed) will make such requirement, and there seems good reason for it.

Subdivision 5 (former subdivision 4) rewrites the provision to cover the same matter in different words.

Last sentence changed to make it applicable to all courts.

SEC. 50. Section 960 of said code is amended to read:

960. No accusatory pleading is insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or

imperfection in matter of form which does not prejudice a substantial right of the defendant upon the merits.

NOTE. Designation of pleading changed to make section of general application. While word "complaint" now appears, there is a question whether it refers to complaint in cases triable in the lower courts.

SEC. 51. Section 961 of said code is amended to read:

961. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an accusatory pleading.

NOTE. Designation of pleading changed to make section of general application.

SEC. 52. Section 963 of said code is amended to read:

963. In pleading a private statute, or an ordinance of a county or a municipal corporation, or a right derived therefrom, it is sufficient to refer to the statute or ordinance by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

NOTE. Adds the references to city and county ordinances, to conform to C. C. P. Section 459. When these references were inserted in the C. C. P. section in 1907 this section seems to have been overlooked, but there is good reason for the reference here also.

SEC. 53. Section 964 of said code is amended to read:

964. An accusatory pleading charging libel or slander need not set forth any extrinsic facts for the purpose of showing the application to the party libeled or slandered of the defamatory matter on which the accusatory pleading is founded; but it is sufficient to state generally that the same was spoken or published concerning him, and the fact that it was so spoken or published must be established at the trial.

NOTE. Designation of the pleading changed to make the section of general application, since libel (Section 249) and slander (Section 258) are misdemeanors now within the jurisdiction of municipal and Class A justices' courts (Sections 1462, 1425). Provisions regarding slander added, in conformity to the corresponding provision of the C. C. P. (Section 460). When the Penal Code was enacted slander was not made a crime, but Section 258 added in 1929 makes it a crime in some cases and this section should be amended accordingly.

SEC. 54. Section 966 of said code is amended to read:

966. In an accusatory pleading for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court and before whom the oath alleged to be false was taken, and that the court, or the person before whom it was taken, had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the accusatory pleading need not set forth the pleadings, record, or procedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

NOTE. Changed so as to include a complaint before a magistrate, whether or not the defendant pleads guilty. Section 806 as it now reads would have the same effect where the defendant pleads guilty, but it seems better to have the rule applicable to all complaints and thus avoid the possibility of a question regarding their sufficiency.

SEC. 55. Section 967 of said code is amended to read:

967. In an accusatory pleading charging the theft of money, bank notes, certificates of stock or valuable securities, or a conspiracy to cheat or defraud a person of any such property, it is sufficient to allege the

theft, or the conspiracy to cheat or defraud, to be of money, bank notes, certificates of stock or valuable securities without specifying the coin, number, denomination, or kind thereof.

NOTE. Designation of the pleading changed to make the section of general application. "Theft" substituted for "larceny or embezzlement" under Section 484 and to carry out the effect of Section 490a.

SEC. 56. Section 968 of said code is amended to read:

968. An accusatory pleading charging exhibiting, publishing, passing, selling, or offering to sell, or having in possession, with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper, or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing; but it is sufficient to state generally the fact of the lewdness or obscenity thereof.

NOTE. The offense here referred to is a misdemeanor, not triable in the superior court of any county (see Sections 311, 19, 1425, 1462), and the change in designation of pleading is to make the section applicable thereto. See definition in proposed Section 691.

SEC. 57. Section 696 of said code is amended to read:

969. In charging the fact of a previous conviction of felony, or of an attempt to commit an offense which, if perpetrated, would have been a felony, or of theft, it is sufficient to state, "That the defendant, before the commission of the offense charged herein, was in (giving the title of the court in which the conviction was had) convicted of a felony (or attempt, etc., or of theft)." If more than one previous conviction is charged, the date of the judgment upon each conviction may be stated, and all known previous convictions, whether in this State or elsewhere, must be charged.

NOTE. Omitting the words "in an indictment or information" twice and inserting "herein" in one place will make the section of general application; and while there is no occasion to charge the convictions here referred to in misdemeanor cases, the rule stated should apply to complaints before a magistrate for felonies.

No similar change is proposed in Section 969a, because, if the complaint gets to the superior court on a plea of guilty, the subject is covered by Section 969½, and while the complaint is still before the magistrate no amendment would be necessary because he can hold defendant to answer for any offense shown by the evidence, whether charged or not (Section 872), and the district attorney can charge any offense shown by the evidence. (Section 809; proposed Section 737.)

SEC. 58. Section 969c of said code is amended to read:

969c. Whenever a defendant is armed with a firearm or other weapon under such circumstances as to bring said defendant within the operation of Section 3024 of the Penal Code relating to certain minimum penalties or of Section 3 of the Dangerous Weapons Control Law, the fact that the defendant was so armed shall be charged in the accusatory pleading. This charge shall be added to and be a part of the count or each of the counts of the accusatory pleading which charge the offense at the time of the commission of which or at the time of the arrest for which the defendant was armed with a weapon. That portion of any count which charges that the defendant was armed shall be sufficient if it can be understood therefrom that at the time of his commission of the offense set forth in the count, the defendant was armed with a weapon, or that at the time of his arrest therefor he was armed with a concealed deadly weapon. The nature of the weapon must be set forth but it shall

be sufficient if this is done substantially in the wording of either of the above mentioned statutes, as a blackjack or a razor with an unguarded blade, or a pistol capable of being concealed upon the person without having a license or permit to carry such pistol. One such charge may name more than one weapon and may allege that the defendant was armed both at the time of his commission of the offense and at the time of his arrest. If the defendant pleads not guilty of the offense charged in any count which alleges that the defendant was armed either at the time of his commission of the offense or at the time of his arrest, or both, the question whether or not he was armed as alleged must be tried by the court or jury which tries the issue upon the plea of not guilty. If the defendant pleads guilty of the offense charged the question whether or not he was armed as alleged must be determined by the court before pronouncing judgment.

NOTE. The provision of the Penal Code referred to in this section as it is was moved in 1941 from Section 1168 to Section 3024 but the necessity of changing this section was apparently overlooked. Name of pleading made general. Short title of act, as authorized in 1947, is used.

SEC. 59. Section 970 of said code is amended to read:

970. When several defendants are named in one accusatory pleading, any one or more may be convicted or acquitted.

NOTE. Amended to make the section of general application.

SEC. 60. Section 971 of said code is amended to read:

971. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree is abrogated; and all persons concerned in the commission of a crime, who by the operation of other provisions of this code are principals therein, shall hereafter be prosecuted, tried and punished as principals and no other facts need be alleged in any accusatory pleading against any such person than are required in an accusatory pleading against a principal.

NOTE. Amended to make the section applicable to both felonies and misdemeanors. No reason appears for making the rule stricter in case of misdemeanors than in case of felonies. It has been argued that this section by implication has that effect and while the argument was rejected (*People* v. *Davis* (1944) L. A. Cr. A. 2053, an unpublished decision) the possibility of such argument should be removed. It has been said that at common law there is no distinction between accessories before the fact and principals, in misdemeanor cases (16 Cor. Jur. 120; 31 Cor. Jur. 740; 22 C. J. S. 145-6; 42 C. J. S. 1073; *People* v. *Outeveras* (1874), 48 Cal. 19, 22); but if so, the first clause of Section 971 as here amended will still apply to felonies, the words omitted being unnecessary. The second clause now contains a part only of the language of Section 31 declaring who are principals. No reason appears why all of it should not be applicable here. The form of words proposed will incorporate all of Section 31 and will include future amendments, as a specific reference to the section number would not (*Vallejo, etc. R. Co.* v. *Superior Court* (1918), 177 Cal. 249, 254).

SEC. 61. Section 973 is added to said code, to read:

973. If the accusatory pleading in any criminal action has heretofore been lost or destroyed or shall hereafter be lost or destroyed, the court must, upon the application of the prosecuting attorney or of the defendant, order a copy of such pleading to be filed and substituted for the original, and when filed and substituted, as provided in this section, the copy shall have the same force and effect as if it were the original pleading.

NOTE. This is present Section 810, which more logically belongs here than where it now is, with slight amendments to make more certain its general application. Some unnecessary words are omitted, "accusatory pleading" substituted for longer description because defined in proposed Section 691; and "prosecuting attorney," also defined in Section 691, used instead of officers now named because the section will apply under Section 690 to courts in which there are prosecuting officers not named in the present section.

SEC. 62. The heading of Title 6, Part 2, is amended to read:

TITLE 6. PLEADINGS AND PROCEEDINGS BEFORE TRIAL

NOTE. To remove the reference to indictments.

SEC. 63. Section 976 of said code is amended to read:

976. When the accusatory pleading is filed, the defendant must be arraigned thereon before the court in which it is filed, unless the action is transferred to some other court for trial.

NOTE. Designation of pleading changed to make it applicable generally. "County" changed to "court." Transfers, if any, should be to specific courts, not to counties.

SEC. 64. Section 977 of said code is amended to read:

977. The defendant must be personally present at the arraignment, except that if the accusatory pleading charges a misdemeanor only he may appear by counsel.

NOTE. Changed so as to be applicable in all courts. Is there good reason for the distinction now existing, regarding the personal presence of defendant in superior and other courts on a misdemeanor charge? This amendment, with other changes proposed, would abolish it. As to arraignment there may be now no difference, as Section 1429 permits a plea in the lower courts to be entered by counsel; but as to trial, at least, there is a difference. See Sections 1043, 1434. It is thought that there is no necessity for a defendant's presence at arraignment and plea in misdemeanor cases, and if a defendant who is out on bail chooses to plead by counsel, he may properly be permitted to do so.

SEC. 65. Section 979 of said code is amended to read:

979. If the defendant has been discharged on bail or has deposited money or other property instead thereof, and does not appear to be arraigned when his personal presence is necessary, the court, in addition to the forfeiture of the undertaking of bail or of the money or other property deposited, may order the issuance of a bench warrant for his arrest.

NOTE. Reference to the clerk is omitted so as to cover the courts which have no clerks. The mechanics of issuing the warrant are in Section 980. "Attendance" changed to "presence" to conform to wording of Section 977. "Direct" changed to "order" to conform to Section 980. "Other property" inserted in view of Section 1298.

SEC. 66. Section 980 of said code is amended to read:

980. At any time after the order for a bench warrant is made, whether the court is sitting or not, the clerk, or if there is no clerk, the judge or justice of the court, may, on application of the prosecuting attorney, issue a bench warrant to one or more counties.

NOTE. Provision for issuance of warrant by the judge where there is no clerk inserted to take care of courts having no clerks. "District attorney" changed to "prosecuting attorney" (see definition of latter in proposed Section 691) because in many lower courts there are prosecutors other than the district attorney.

SEC. 67. Section 983 of said code is amended to read:

983. The bench warrant may be served in any county in the same manner as a warrant of arrest.

NOTE. Amended to remove the exception that the warrant need not be endorsed by a magistrate in another county, as no longer needed. This section has not been amended since it was passed in 1872. At that time there was a provision in Sections 819 and 820 requiring such an endorsement on a warrant of arrest, but those sections were repealed in 1935 and there has since been no such provision.

SEC. 68. Section 988 of said code is amended to read:

988. The arraignment must be made by the court, or by the clerk or prosecuting attorney under its direction, and consists in reading the accusatory pleading to the defendant and delivering to him a true copy thereof, and of the endorsements thereon, if any, including the list of witnesses, and asking him whether he pleads guilty or not guilty to the accusatory pleading; provided, that where the accusatory pleading is a complaint charging a misdemeanor triable in an inferior court, a copy of the same need not be delivered to any defendant unless requested by him.

NOTE. Changes in designation of pleading and of attorney made to adapt the section to all courts. See definitions proposed in Section 691. "If any" inserted in recognition of the fact that no endorsements are required on a complaint. See definition of terms used in proposed Section 691. Proviso is to continue in the inferior courts the requirement that defendant must request a copy of the complaint if he wishes it, as now provided in Section 1426.1 which is to be repealed.

SEC. 69. Section 989 of said code is amended to read:

989. When the defendant is arraigned, he must be informed that if the name by which he is prosecuted is not his true name, he must then declare his true name, or be proceeded against by the name in the accusatory pleading. If he gives no other name, the court may proceed accordingly; but if he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the accusatory pleading may be had against him by that name, referring also to the name by which he was first charged therein.

NOTE. Amended to make the designation of the pleading of general application.

SEC. 70. Section 990 of said code is amended to read:

990. If on the arraignment, the defendant requires it, he must be allowed a reasonable time to answer, which shall be not less than one day for an offense originally triable in the superior court and not more than five days for an offense originally triable in an inferior court.

NOTE. No substantial change is made in regard to an indictment or information, though the words are slightly changed and rearranged. Provision for nature of "answer" omitted because adequately covered by other sections. Provisions regarding complaints are inserted and differ from present statutory provisions in inserting a limit on time to plead.

SEC. 71. The heading of Chapter 2, Title 6, Part 2 of said code is amended to read:

CHAPTER 2. SETTING ASIDE THE INDICTMENT OR INFORMATION

NOTE. Amended to cover both forms of pleading dealt with in the chapter.

SEC. 72. Section 995 of said code is amended to read:

995. The indictment or information must be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases:

If it be an indictment:

1. Where it is not found, endorsed, and presented as prescribed in this code.

2. That the defendant has been indicted without reasonable or probable cause.

If it be an information:

1. That before the filing thereof the defendant had not been legally committed by a magistrate.

2. That the defendant had been committed without reasonable or probable cause.

NOTE. Subdivision 2 inserted to provide a simpler remedy than that applied in *Greenberg* v. *Superior Court* (1942) 19 Cal. (2d) 319 (a writ of prohibition).

SEC. 73. The heading of Chapter 3, Title 6, Part 2 of said code is amended to read:

CHAPTER 3. DEMURRER AND AMENDMENT

NOTE. Chapter deals with amendments at some length and heading should so indicate.

SEC. 74. Section 1004 of said code is amended to read:

1004. The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof either:

1. If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, or, if an information or complaint that the court has no jurisdiction of the offense charged therein;

2. That it does not substantially conform to the provisions of Section 950 and 952, and also Section 951 in case of an indictment or information;

3. That more than one offense is charged, except as provided in Section 954;

4. That the facts stated do not constitute a public offense;

5. That it contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

NOTE. The time reference is inserted in the heading because it is now not expressly stated that the demurrer must be before plea, though Section 1011 now implies as much. Section 1003, on the other hand, now suggests that both may be put in at the same time. Other changes are to adapt the section to all pleadings. Reference to "jurisdiction of the county" omitted from subdivision 1 in view of the changes in provisions regarding jurisdiction. They are also unnecessary.

SEC. 75. Section 1005 of said code is amended to read:

1005. The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of objection to the accusatory pleading or it must be disregarded.

NOTE. Designation of pleading changed to make the section of general application.

SEC. 76. Section 1007 of said code is amended to read:

1007. Upon considering the demurrer, the court must make an order either overruling or sustaining it. If the demurrer is overruled, the court must permit the defendant, at his election, to plead, which he must do forthwith. If the demurrer is sustained, by a superior court, the court must, if the defect can be remedied by amendment, permit the indictment or information to be amended, either forthwith or within such time, not exceeding ten days, as it may fix, or, if the defect or insufficiency therein cannot be remedied by amendment, the court may direct the filing of a new information or the submission of the case to the same or another grand jury. If the demurrer is sustained by an inferior court, the court must, if the defect can be remedied, permit the filing of an amended complaint within such time not exceeding ten days as it may fix. The orders made under this section shall be entered in the docket or minutes of the court.

NOTE. This and proposed Sections 1008, 1009, and 1010 are a complete rewriting and rearranging of Sections 1007 to 1011, inserting provisions to take care of proceedings in the lower courts, in which the course of procedure differs from that in the superior courts, but without intention to make any substantial change in present superior court procedure. In this section the substance of present Section 1011 is inserted, and other matters are added, to cover completely the order to be made in ruling on a demurrer. "Overruling" and "sustaining" are substituted for "allowing" and "disallowing" as being more suitable words to use now in describing the action of the court upon a demurrer. This and the other sections mentioned will, as changed, alter the present practice in the lower courts, of *dismissing the action* under Section 1387 for the purpose of filing an amended complaint. The change will permit the much more convenient procedure of filing the amended complaint in the same action. Both this section and Section 1009, as proposed, require an amended pleading, rather than an amendment, in the lower courts, because the complaint there is verified by some individual and would lose that character if changed by others.

SEC. 77. Section 1008 of said code is amended to read:

1008. If the demurrer is sustained, and no amendment of the accusatory pleading is permitted, or, in case an amendment is permitted, no amendment is made or amended pleading is filed within the time fixed therefor, the action shall be dismissed, and, except as provided in Section 1010, the court must order, if the defendant is in custody, that he be discharged or if he has been admitted to bail, that his bail be exonerated, or, if money or other property has been deposited instead of bail for his appearance, that such money or other property be refunded to him or to the person or persons found by the court to have deposited such money or other property on his behalf.

NOTE. See note to Section 1007. This is the substance of present Section 1009, with parts of Section 1008. The exception now in the middle of Section 1008 is placed in Section 1010 and enlarged to cover bail and money as well as custody. Provision for dismissal uses "action" instead of "proceeding," as a more appropriate word (see Section 683), and is differently phrased from present provision in Section 1008 but has same effect because by proposed Section 1007 the court must permit an amendment if the defect can be remedied. "Or other property" added because of Section 1298.

SEC. 78. Section 1009 of said code is amended to read:

1009. An indictment, accusation or information may be amended by the district attorney, and an amended complaint may be filed by the prosecuting attorney in any inferior court, without leave of court at any time before the defendant pleads or a demurrer to the original pleading is sustained. The court in which an action is pending may order or permit

an amendment of an indictment, accusation or information, or the filing of an amended complaint, for any defect or insufficiency, at any stage of the proceedings, or if the defect in an indictment or information be one that cannot be remedied by amendment, may order the case submitted to the same or another grand jury, or a new information to be filed. The defendant shall be required to plead to such amendment or amended pleading forthwith, or, at the time fixed for pleading, if he has not yet pleaded and the trial or other proceeding shall continue as if the pleading had been originally filed as amended, unless the substantial rights of the defendant would be prejudiced thereby, in which event a reasonable postponement, not longer than the ends of justice require, may be granted. An indictment or accusation cannot be amended so as to change the offense charged, nor an information so as to charge an offense not shown by the evidence taken at the preliminary examination. A complaint cannot be amended to charge an offense not attempted to be charged by the original complaint, except that separate counts may be added which might properly have been joined in the original complaint. The amended complaint must be verified but may be verified by some person other than the one who made oath to the original complaint.

NOTE. This contains the present provisions of Section 1008 on amendments, with additional provisions applicable to lower courts, which are new. The provision on pleading to an amendment is new as to all courts, there being nothing on the subject. Verification of an amended complaint in lower courts by one who did not verify the original is permitted to avoid possible difficulties if the original party is not available or refuses. The verifier is not a party to the action and no reason appears why he cannot be changed.

SEC. 79. Section 1010 of said code is amended to read:

1010. When a criminal action in the superior court is dismissed after the sustaining of a demurrer, or at any other stage of the proceedings because of any defect or insufficiency of the indictment or information, if the court directs that the case be resubmitted to the same or another grand jury or that a new information be filed, the defendant shall not be discharged from custody, nor his bail exonerated nor money or other property deposited instead of bail on his behalf refunded, but the same proceedings must be had on such direction as are prescribed in Sections 997 and 998.

NOTE. This is present Section 1010 amplified to cover the direction for a new information, and prefaced by a more inclusive description of the situation to which applicable; and also a part of present Section 1008 prohibiting defendant's discharge in the same situation.

SEC. 80. Section 1011 of said code is repealed.

NOTE. The substance of this section is placed in Section 1007 by the amendment of that section.

SEC. 81. Section 1012 of said code is amended to read:

1012. When any of the objections mentioned in Section 1004 appears on the face of the accusatory pleading, it can be taken only by demurrer, and failure so to take it shall be deemed a waiver thereof,

except that the objection to the jurisdiction of the court and the objection that the facts stated do not constitute a public offense may be taken by motion in arrest of judgment.

NOTE. Near the beginning the words "any of" inserted and the singular number thereafter used, in the belief that this is a better form of statement. Permission to raise the objections to the jurisdiction and that no offense is stated, at the trial under plea of not guilty is eliminated because this mode of raising it, if it is sustained, operates to deprive the people of any opportunity for a review of the ruling. (See Note to Section 1385.) The waiver of other objections by failure to demur is stated affirmatively, as in Section 1428.1 adopted by the 1945 Legislature, instead of leaving it to the doubtless necessary conclusion from the other provision that they can be taken only by demurrer.

SEC. 82. Section 1016 of said code is amended to read:

1016. There are five kinds of pleas to an accusatory pleading:

1. Guilty.
2. Not guilty.
3. A former judgment of conviction or acquittal of the offense charged.
4. Once in jeopardy.
5. Not guilty by reason of insanity.

A defendant who does not plead guilty may enter one or more of the other pleas. A defendant who does not plead not guilty by reason of insanity shall be conclusively presumed to have been sane at the time of the commission of the offense charged, provided that the court may for good cause shown allow a change of plea at any time before the commencement of the trial. A defendant who pleads not guilty by reason of insanity, without also pleading not guilty thereby admits the commission of the offense charged.

NOTE. The change is in the first line, to make the section of general application. Section 1429 now adopts this section for use in the lower courts, but will be repealed.

SEC. 83. Section 1017 of said code is amended to read:

1017. Every plea must be made in open court and may be oral or in writing, and must be entered upon the minutes of the court and must be taken down in shorthand by the official reporter if there is one present. The plea, whether oral or in writing, must be in substantially the following form:

1. If the defendant plead guilty: "The defendant pleads that he is guilty of the offense charged."
2. If he plead not guilty: "The defendant pleads that he is not guilty of the offense charged."
3. If he plead a former conviction or acquittal: "The defendant pleads that he has already been convicted (or acquitted) of the offense charged, by the judgment of the court of _____ (naming it), rendered at _____ (naming the place), on the _____ day of _____."
4. If he plead once in jeopardy: "The defendant pleads that he has been once in jeopardy for the offense charged (specifying the time, place, and court)."
5. If he plead not guilty by reason of insanity: "The defendant pleads that he is not guilty of the offense charged because he was insane at the time that he is alleged to have committed the unlawful act."

NOTE. This amendment permits a plea to be written as well as oral, which will facilitate the use of the proper forms as provided by Section 1016. Justices' courts of Class B have no official reporter, and in municipal courts and justices' courts of Class A they do not attend criminal cases unless ordered by the court, and therefore cases where no reporter is present are excepted from the requirement, which is new, that all pleas be reported.

SEC. 84. Section 1018 of said code is amended to read:

1018. Unless otherwise provided by law, every plea must be put in by the defendant himself in open court. No plea of guilty of a felony for which the maximum punishment is death, or life imprisonment without the possibility of parole, shall be received from a defendant who does not appear with counsel, nor shall any plea of guilty of any other felony be accepted from any defendant who does not appear with counsel unless the court shall first fully inform him of his right to counsel and unless the court shall find that the defendant understands his right to counsel and freely waives it. On application of the defendant at any time before judgment the court may, and in case of a defendant who appeared without counsel at the time of the plea the court must, for good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted.

Upon indictment or information against a corporation a plea of guilty may be put in by counsel.

This section shall be liberally construed to effect these objects and to promote justice.

NOTE. Rewritten. Section 1018 as it stands does not provide how a plea other than one of guilty shall be put in. The decisions are not clear on the subject. The amendment solves the problem by requiring the defendant himself to make the plea, except in case of a corporation. This is for the superior court only, since Section 1429 expressly permits all pleas to be put in by counsel in the inferior courts.

SEC. 85. Section 1019 of said code is amended to read:

1019. The plea of not guilty puts in issue every material allegation of the accusatory pleading, except those allegations regarding previous convictions of the defendants to which an answer is required by Section 1025.

NOTE. Designation of pleading changed to make the section of general application. Exception added to make the section consistent with Section 1025, which was not in the code when Section 1019 was originally adopted.

SEC. 86. Section 1021 of said code is amended to read:

1021. If the defendant was formerly acquitted on the ground of variance between the accusatory pleading and the proof or the accusatory pleading was dismissed upon an objection to its form or substance, or in order to hold the defendant for a higher offense, without a judgment of acquittal, it is not an acquittal of the same offense.

NOTE. Designation of pleading changed to make section generally applicable.

SEC. 87. Section 1022 of said code is amended to read:

1022. Whenever the defendant is acquitted on the merits, he is acquitted of the same offense, notwithstanding any defect in form or substance in the accusatory pleading on which the trial was had.

NOTE. Designation of pleading changed to make section generally applicable.

SEC. 88. Section 1023 of said code is amended to read:

1023. When the defendant is convicted or acquitted or has been once placed in jeopardy, upon an accusatory pleading, the conviction, acquittal, or jeopardy is a bar to another prosecution for the offense

charged in such accusatory pleading, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that accusatory pleading.

NOTE. Designation of pleading changed to make section generally applicable.

SEC. 89. Section 1024 of said code is amended to read:

1024. If the defendant refuses to answer the accusatory pleading, by demurrer or plea, a plea of not guilty must be entered.

NOTE. Designation of pleading changed to make section generally applicable.

SEC. 90. Section 1025 of said code is amended to read:

1025. When a defendant who is charged in the accusatory pleading with having suffered a previous conviction pleads either guilty or not guilty to the offense charged against him, he must be asked whether he has suffered such previous conviction. If he answers that he has, his answer must be entered in the minutes of the court, and must, unless withdrawn by consent of the court, be conclusive of the fact of his having suffered such previous conviction in all subsequent proceedings. If he answers that he has not, his answer must be entered in the minutes of the court, and the question whether or not he has suffered such previous conviction must be tried by the jury which tries the issue upon the plea of not guilty, or in case of a plea of guilty, by a jury impaneled for that purpose, unless a jury is waived. The refusal of the defendant to answer is equivalent to a denial that he has suffered such previous conviction. In case the defendant pleads not guilty, and answers that he has suffered the previous conviction, the charge of the previous conviction must not be read to the jury, nor alluded to on the trial.

NOTE. Designation of pleading changed, for general application. Reference to waiver of jury trial inserted. The constitutional provision for waiver undoubtedly covers this issue, and this section should take notice of it.

SEC. 91. Section 1033 of said code is amended to read:

1033. A criminal action pending in a superior court may be removed from the court in which it is pending on application of the defendant, on the ground that a fair and impartial trial cannot be had in the county. This chapter does not apply to actions pending in other courts.

NOTE. Reference to superior court and last sentence inserted to prevent the extension of this chapter to other courts by proposed Section 690. A similar provision for justices' courts appears in Section 1431. Apparently there is none for municipal courts, but no occasion for such provision there seems to have arisen.

SEC. 92. Section 1043 of said code is amended to read:

1043. The defendant must be personally present at the trial; provided, that in case of a misdemeanor charge, if he absents himself with full knowledge that a trial is to be or is being had, the trial may proceed in his absence. If the defendant in a felony case fails to appear at any time during the course of the trial and before the jury has retired for its deliberations or the case has been finally submitted to the judge, and after the exercise of reasonable diligence his presence cannot be procured, the court shall declare a mistrial and the cause may be again tried.

NOTE. By the present provisions of the code a distinction is made between misdemeanor trials in the superior courts and those in the lower courts. In the former, the defendant need not attend the trial unless especially required to do so (present Section 1043); in the latter he must attend (see 1434), but if his failure to attend is under the circumstances stated in the proviso above he cannot have a new trial by reason of it (Section 1451, subdivision 1). No good reason appears for this difference, and the rule of the inferior courts appears the better one. Hence it has been inserted here and will apply to all courts. The provision for a mistrial if defendant fails to appear in a felony case is new.

SEC. 93. Section 1053 of said code is amended to read:

1053. If after the commencement of the trial of a criminal action or proceeding in any court the judge or justice presiding at such trial shall die, become ill, or for any other reason be unable to proceed with the trial, any other judge or justice of the court, in which the trial is proceeding may proceed with and finish the trial; or if there be no other judge or justice of that court available, then the clerk, sheriff, marshal or constable shall adjourn the court and notify the Chairman of the Judicial Council of the facts, and shall continue the case from day to day until such time as said chairman shall designate and assign a judge or justice of some other court, and such judge or justice shall arrive, to proceed with and complete the trial, or until such time as by stipulation in writing between the prosecuting attorney and the attorney for the defendant, filed with the court, a judge or justice shall be agreed upon by them, and such judge or justice shall arrive to complete said trial. The judge or justice authorized by the provision of this section to proceed with and complete the trial shall have the same power, authority and jurisdiction as if the trial had been commenced before such judge or justice.

NOTE. Amended to extend it to all courts, to require notice of the facts to the Chairman of the Judicial Council, and to authorize a day to day continuance until the new judge arrives.

SEC. 94. Section 1057 of said code is amended to read:

1057. A panel is a list of jurors returned by a sheriff, marshal, constable, or other proper officer, to serve at a particular court, or for the trial of a particular action.

NOTE. Amended to make section applicable to all courts.

SEC. 95. Section 1059 of said code is amended to read:

1059. A challenge to the panel can be founded only on a material departure from the forms prescribed in respect to the drawing and return of the jury in civil actions, or on the intentional omission of the sheriff, marshal, constable, or other officer, to summon one or more of the jurors drawn.

NOTE. Amended to make section applicable to all courts.

SEC. 96. Section 1093 of said code is amended to read:

1093. The jury having been impaneled and sworn, unless waived, the trial must proceed in the following order, unless otherwise directed by the court:

1. If the accusatory pleading be for a felony, the clerk must read it, and state the plea of the defendant to the jury, and in cases where it charges a previous conviction, and the defendant has confessed the same, the clerk in reading it shall omit therefrom all that relates to such previous conviction. In all other cases this formality may be dispensed with.

2. The district attorney, or other counsel for the people, must open the cause and offer the evidence in support of the charge.

3. The defendant or his counsel may then open the defense, and offer his evidence in support thereof.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the district attorney, or other counsel for the people, and counsel for the defendant, may argue the case to the court and jury; the district attorney, or other counsel for the people, opening the argument and having the right to close.

6. The judge may then charge the jury, and must do so on any points of law pertient to the issue, if requested by either party; and he may state the testimony, and may comment on the failure of the defendant to explain or deny by his testimony any evidence or facts in the case against him, whether the defendant testifies or not, and he may make such comment on the evidence and the testimony and credibility of any witness as in his opinion is necessary for the proper determination of the case and he may declare the law. At the beginning of the trial or from time to time during the trial, and without any request from either party, the trial judge may give the jury such instructions on the law applicable to the case as he may deem necessary for their guidance on hearing the case, and shall not be required to repeat at the close of the trial any instructions so given. The trial judge may cause copies of instructions so given to be delivered to the jurors at the time they are given.

NOTE. Designation of pleading changed in subdivision 1, to make it applicable to all cases. Last sentence of subdivision 6 omitted because covered by Section 1127. New matter at end of subdivision 6 is partial adoption of a proposal of Judge Edward T. Bishop in the March-April 1945 number of the State Bar Journal. Many instructions could profitably be given the jury at the beginning of the trial and while this could be done under Section 1094, an express authorization seems better.

SEC. 97. Section 1095 of said code is amended to read:

1095. If the offense charged is punishable with death, two counsel on each side may argue the cause. In any other case the court may, in its discretion, restrict the argument to one counsel on each side.

NOTE. Amended to eliminate the reference to "indictment or information," so that the section may be generally applicable.

SEC. 98. Section 1099 of said code is amended to read:

1099. When two or more defendants are included in the same accusatory pleading, the court may, at any time before the defendants have gone into their defense, on the application of the prosecuting attorney, direct any defendant to be discharged, that he may be a witness for the people.

NOTE. "District attorney" changed to "prosecuting attorney" (see definition in proposed Section 691) to make this section applicable in courts where there are prosecutors other than the district attorney. "Charge" changed to "accusatory pleading" to conform to change proposed in Section 1100 and to state the construction made by *Ex parte Stice* (1886), 70 Cal. 51, 56.

SEC. 99. Section 1100 of said code is amended to read:

1100. When two or more defendants are included in the same accusatory pleading, and the court is of opinion that in regard to a

particular defendant there is not sufficient evidence to put him on his defense, it must order him to be discharged before the evidence is closed, that he may be a witness for his codefendant.

NOTE. "Indictment or information" changed to "accusatory pleading" to make this section applicable in all courts.

SEC. 100. Section 1119 of said code is amended to read:

1119. When, in the opinion of the court, it is proper that the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred, or any personal property which has been referred to in the evidence and cannot conveniently be brought into the court room, it may order the jury to be conducted in a body, in the custody of the sheriff, marshal or constable, as the case may be, to the place, or to such property, which must be shown to them by a person appointed by the court for that purpose; and the officer must be sworn to suffer no person to speak or communicate with the jury, nor to do so himself, on any subject connected with the trial, and to return them into court without unnecessary delay, or at a specified time.

NOTE. Designation of officer changed to fit all courts. Provision for view of property inserted.

SEC. 101. Section 1127 of said code is amended to read:

1127. All instructions given shall be in writing, unless there is a phonographic reporter present and he takes them down in which case they may be given orally; provided however, that in all misdemeanor cases oral instructions may be given pursuant to stipulation of the prosecuting attorney and counsel for the defendant. In charging the jury the court may instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case and in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses. Either party may present to the court any written charge on the law, but not with respect to matters of fact, and request that it be given. If the court thinks it correct and pertinent, it must be given; if not, it must be refused. Upon each charge presented and given or refused, the court must endorse and sign its decision and a statement showing which party requested it. If part be given and part refused, the court must distinguish, showing by the endorsement what part of the charge was given and what part refused.

NOTE. Permits oral instructions without consent of parties, in felony cases, but only if taken down by a reporter.

SEC. 102. Section 1130 of said code is amended to read:

1130. If the prosecuting attorney fails to attend at the trial, the court must appoint some attorney at law to perform the duties of the prosecuting attorney on such trial.

NOTE. Amended to make the section applicable to all courts.

SEC. 103. Section 1135 of said code is amended to read:

1135. A room must be provided by the board of supervisors of each county for the use of the jury, in superior and municipal courts only, upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery. If the board of supervisors neglect to do so any such court may order the sheriff or marshal to do so, and the expenses incurred by him in carrying the order into effect, when certified by the court, are a county charge; provided, however, that said board of supervisors shall provide a room for the female members of the jury which shall be separate and apart from the room provided for the male members.

NOTE. "Board of" inserted twice because the supervisors can act in such matters only as a board. Designation of courts inserted to limit the section to the courts designated, otherwise proposed Section 690 would apply it to all courts. "Marshal" inserted because he is the proper officer of a municipal court. It does not seem likely that such accommodations will be so often needed in justices' and police courts as to necessitate the provision of a regular room. Infrequent occasions can be cared for under Section 1136.

SEC. 104. Section 1136 of said code is amended to read:

1136. While the jury are kept together, either during the progress of the trial or after their retirement for deliberation, the court must direct the sheriff, marshal or constable to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. In the superior, municipal and township courts, the expenses incurred under the provisions of this section shall be a charge against the county or city and county in which said court is held. In all other courts such expenses shall be a charge against the city in which the court is held. All such expenses shall be paid on the order of the court.

NOTE. "Marshal or constable" inserted to facilitate the application of this section to all courts. Provision regarding payment rewritten for same purpose. While it does not seem necessary to apply Section 1135 to justices' and police courts, they may have some occasion to exercise the powers conferred by this section, and should be able to do so.

SEC. 105. Section 1138 of said code is amended to read:

1138. After the jury have retired for deliberation, if there be any disagreement between them as to the testimony, or if they desire to be informed on any point of law arising in the case, they must require the officer to conduct them into court. Upon being brought into court, the information required must be given in the presence of, or after notice to, the prosecuting attorney, and the defendant or his counsel, or after they have been called.

NOTE. Amended because in some lower courts there are other prosecutors than the district attorney. "Been" inserted before "called" to carry out the manifest purpose of the provision.

SEC. 106. Section 1144 of said code is repealed.

NOTE. By proposed Section 690 this chapter will be applicable to municipal courts, and Section 1135 is to be amended so as expressly to apply to those courts. Section 1143 already expressly applies to municipal courts, and Class A justices' courts. Hence, Section 1144 will no longer be necessary.

SEC. 107. The heading of Chapter 4, Title 7, Part 2 of said code is amended to read:

CHAPTER 4. THE VERDICT OR FINDING

NOTE. Provision for findings is to be inserted in this chapter by proposed Section 1167, and the heading should be changed accordingly.

SEC. 108. Section 1150 of said code is amended to read:

1150. The jury must render a general verdict, except that in a superior court, when they are in doubt as to the legal effect of the facts proved, they may, except upon a trial for libel, find a special verdict.

NOTE. Amended to express the combined effect of the present section and of Section 1441, applicable to lower courts, which requires a general verdict in all cases.

SEC. 109. Section 1151 of said code is amended to read:

1151. A general verdict upon a plea of not guilty is either "guilty" or "not guilty," which imports a conviction or acquittal of the offense charged in the accusatory pleading. Upon a plea of a former conviction or acquittal of the offense charged, or upon a plea of once in jeopardy, the general verdict is either "for the people" or "for the defendant." When the defendant is acquitted on the ground of a variance between the accusatory pleading and the proof, the verdict is "not guilty by reason of variance between charge and proof."

NOTE. "Indictment" changed to "accusatory pleading" twice and to "charge" once to make section fit all cases in all courts. Apparently this section was overlooked in 1880, when "information" was placed alongside "indictment" in many Penal Code sections. Form of verdict on plea of once in jeopardy added. This plea was added in 1880 to those listed in Section 1016 but no form of general verdict on it was or has since been provided. No form is here provided for a verdict on the plea of not guilty by reason of insanity, now also authorized by Section 1016, because the form of verdict thereon is stated in Section 1026.

SEC. 110. Section 1155 of said code is amended to read:

1155. The court must give judgment upon the special verdict as follows:

1. If the plea is not guilty, and the facts prove the defendant guilty of the offense charged in the indictment or information, or of any other offense of which he could be convicted under that indictment or information, judgment must be given accordingly. But if otherwise, judgment of acquittal must be given.

2. If the plea is a former conviction or acquittal or once in jeopardy of the same offense, the court must give judgment of acquittal or conviction, as the facts prove or fail to prove the former conviction or acquittal or jeopardy.

NOTE. The provisions of this section, should manifestly apply to informations as well as indictments. While there are few special verdicts, the provision for them, if made at all, should be complete. This section apparently was overlooked in 1880, when many sections were made to conform to the constitutional provision for informations. Jeopardy added here as in Section 1151.

SEC. 111. Section 1157 of said code is amended to read:

1157. Whenever a defendant is convicted of a crime which is distinguished into degrees, the jury, or the court if a jury trial is waived, must find the degree of the crime of which he is guilty.

NOTE. Provision regarding waiver of jury trial is inserted. This seems to have been overlooked when jury waivers were authorized, and the provision proposed to be inserted as Section 1167 probably does not cover this case.

SEC. 112. Section 1158 of said code is amended to read:

1158. Whenever the fact of a previous conviction of another offense is charged in an accusatory pleading, and the defendant is found guilty of the offense with which he is charged, the jury, or the judge if a jury trial is waived, must unless the answer of the defendant admits such

previous conviction, find whether or not he has suffered such previous conviction. The verdict or finding upon the charge of previous conviction may be: "We (or I) find the charge of previous conviction true" or "We (or I) find the charge of previous conviction not true," according as the jury or the judge find that the defendant has or has not suffered such conviction. If more than one previous conviction is charged a separate finding must be made as to each.

NOTE. Designation of pleading changed to make section of general application, and wording slightly changed to remove possible ambiguity of phrase "admits the charge" now in section. Also references to findings inserted to cover jury waivers and provision inserted covering cases where more than one prior is charged.

SEC. 113. Section 1159 of said code is amended to read:

1159. The jury, or the judge if a jury trial is waived, may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense.

NOTE. See note to Section 1157.

SEC. 114. Section 1160 of said code is amended to read:

1160. On a charge against two or more defendants jointly, if the jury cannot agree upon a verdict as to all, they may render a verdict as to the defendant or defendants in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be tried again.

Where two or more offenses are charged in any accusatory pleading, if the jury cannot agree upon a verdict as to all of them, they may render a verdict as to the charge or charges upon which they do agree, and the charges on which they do not agree may be tried again.

NOTE. Amended to make the section of general application and slightly reworded. Provision regarding two or more offenses inserted.

SEC. 115. Section 1164 of said code is amended to read:

1164. When the verdict given is such as the court may receive, the clerk, or if there is no clerk, the judge or justice, must immediately record it in full upon the minutes, and if requested by any party read it to the jury, and inquire of them whether it is their verdict. If any juror disagrees, the fact must be entered upon the minutes and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury must be discharged from the case.

NOTE. Amended to insert provision for case where there is no clerk. Some justices' courts are still without clerks. Also eliminates necessity for reading verdict to jury, unless requested.

SEC. 116. Section 1165 of said code is amended to read:

1165. Where a general verdict is rendered or a finding by the court is made in favor of the defendant, except on a plea of not guilty by reason of insanity, a judgment of acquittal must be forthwith given. If such judgment is given, or a judgment imposing a fine only, without imprisonment for nonpayment is given, and the defendant is not detained for any other legal cause, he must be discharged, if in custody, as soon as the judgment is given, except that, where the acquittal is because of a variance between the pleading and the proof which may be obviated by a new accusatory pleading, the court may order his detention, to the end that

a new accusatory pleading may be preferred, in the same manner and with like effect as provided in Section 1117.

NOTE. The first sentence is new. There seems now no provision in the code expressly directing a judgment of acquittal, except in case of a special verdict (see 1155). The desirability of such provision seems obvious. The exception of pleas of not guilty by reason of insanity is made because that matter is covered by Sections 1026 and 1026a. The provision regarding fine without imprisonment appears in Section 1454, applicable to inferior courts. Since Section 1454 is to be repealed, and the provision should be applicable to all courts, it is inserted here.

"Indictment or information" twice changed to "accusatory pleading," in order to make the exception applicable in all courts.

SEC. 117. Section 1167 is added to said code, to read:

1167. When a jury trial is waived, the judge or justice before whom the trial is had shall, at the conclusion thereof, announce his findings upon the issues of fact, which shall be in substantially the form prescribed for the general verdict of a jury and shall be entered upon the minutes.

NOTE. There seems to be now no provision in the code for findings when a jury trial is waived. The provision here proposed conforms to the usual practice, so far as known. The purpose of a jury's special verdict, under Sections 1150, 1152-5, is merely to enable the judge to apply the law to the facts, and when he tries the case himself he can do this without special findings; hence, no provision is proposed for them. See Section 1151 for forms of general verdict.

SEC. 118. Section 1180 of said code is amended to read:

1180. The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew, and the former verdict or finding cannot be used or referred to, either in evidence or in argument, or be pleaded in bar of any conviction which might have been had under the accusatory pleading.

NOTE. Designation of pleading changed to make section of general application. This section was apparently overlooked in 1880 when "information" was inserted in many sections. "Or finding" inserted.

SEC. 119. Section 1181 of said code is amended to read:

1181. When a verdict has been rendered or a finding made against the defendant, the court may, upon his application, grant a new trial, in the following cases only:

1. When the trial has been had in his absence except in cases where the trial may lawfully proceed in his absence;

2. When the jury has received any evidence out of court, other than that resulting from a view of the premises, or of personal property;

3. When the jury has separated without leave of the court after retiring to deliberate upon their verdict, or been guilty of any misconduct by which a fair and due consideration of the case has been prevented;

4. When the verdict has been decided by lot, or by any means other than a fair expression of opinion on the part of all the jurors;

5. When the court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial, and when the district attorney or other counsel prosecuting the case has been guilty of prejudicial misconduct during the trial thereof before a jury;

6. When the verdict or finding is contrary to law or evidence, but if the evidence shows the defendant to be not guilty of the degree of the

crime of which he was convicted, but guilty of a lesser degree thereof, or of a lesser crime included therein, the court may modify the verdict, finding or judgment accordingly without granting or ordering a new trial, and this power shall extend to any court to which the cause may be appealed;

7. When the verdict or finding is contrary to law or evidence, but in any case wherein authority is vested by statute in the trial court or jury to recommend or determine as a part of its verdict or finding the punishment to be imposed, the court may modify such verdict or finding by imposing the lesser punishment without granting or ordering a new trial, and this power shall extend to any court to which the case may be appealed;

8. When new evidence is discovered material to the defendant, and which he could not, with reasonable diligence, have discovered and produced at the trial. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

NOTE. Section 1043 as proposed to be amended, requires defendant's presence at the trial in felony cases and in misdemeanor cases, unless he voluntarily absents himself. The idea back of present Sections 1181 and 1451 on this point is that defendant should have a new trial if the trial is had without him where his presence is necessary. The amendment of subdivision 1 of this section carries out this idea and applies it to the change in the provision regarding his presence. Introductory paragraph changed to make it clear that cases tried without jury are covered. Reference to view of property added to subdivision 2 by reason of proposed amendment of Section 1119. Subdivision 7, providing for change of punishment, added. No other substantial changes in this section.

This section is, in the main, the same as Section 1451, applying in the inferior courts, which it is proposed to repeal, but contains the following provisions not in Section 1451, but which will be applied in those courts:

In subdivision 2, the reference to a view of the premises or property. Since the provision for a view (Section 1119) will by its amendment and by proposed Section 690 be applicable in the inferior courts this exception of evidence received on a view should also apply there.

In subdivision 5, the provision for misdirection of the jury in matter of law, and for misconduct of the prosecutor. These two matters should be, if they are not, ground for a new trial in the inferior courts. They are grounds upon which reversals on appeal may be and sometimes are founded (see Sections 1259, 1469), and the trial courts, which in municipal and Class A justices' courts must be and in others often are presided over by lawyers, should have authority to act upon them.

In subdivision 6, the provision for reducing the conviction to a lower degree or an included offense and in subdivision 7, the provision for reducing punishment. There are few, if any, offenses triable in the inferior courts where these provisions could be applied; but if there are any such cases their application seems proper, and in other cases it can do no harm.

All of subdivision 7, which does not affect any matter before the inferior courts.

In subdivision 8, the provision for a reasonable postponement to enable the defendant to obtain affidavits. A defendant may need this time as much in the inferior courts as in the superior courts, and should be able to get it if needed.

SEC. 120. Section 1185 of said code is amended to read:

1185. A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea, finding, or verdict of guilty, or on a finding or verdict against the defendant, on a

plea of a former conviction, former acquittal or once in jeopardy. It may be founded on any of the defects in the accusatory pleading mentioned in Section 1004, unless the objection has been waived by a failure to demur, and must be made and determined before the judgment is pronounced. When determined, the order must be immediately entered in the minutes.

NOTE. Designation of pleading changed and reference to clerk omitted, to make section of general application. Pleas of "former acquittal or once in jeopardy" inserted in first sentence. See note to Section 1151.

SEC. 121. Section 1186 of said code is amended to read:

1186. The court may, on its own motion, at any time before judgment is pronounced, arrest the judgment for any of the defects in the accusatory pleading upon which a motion in arrest of judgment may be founded as provided in Section 1185, by order for that purpose entered upon its minutes.

SEC. 122. Section 1187 of said code is amended to read:

1187. The effect of an order arresting judgment, in a superior court, is to place the defendant in the same situation in which he was immediately after the indictment was found or information filed. In any other court the effect is to place the defendant in the situation in which he was before the trial was had.

NOTE. The provision of Section 1452 is inserted here at the end, in order to retain the distinction made between superior and inferior courts, which rests on their different modes of procedure. In an inferior court an amendment of the complaint might be authorized before trial, under proposed Section 1009. In the superior courts Section 1188 points out the procedure.

SEC. 123. Section 1191 of said code is amended to read:

1191. In the superior court, after a plea, finding or verdict of guilty, or after a finding or verdict against the defendant on a plea of a former conviction or acquittal, or once in jeopardy, the court must appoint a time for pronouncing judgment, which must be within twenty days after the verdict, finding or plea of guilty, during which time the court shall refer the case to the probation officer for a report if eligible to probation and pursuant to Section 1203 of this code; provided, however, that the court may extend the time not more than ten days for the purpose of hearing or determining any motion for a new trial, or in arrest of judgment, and may further extend the time until the probation officer's report is received and until any proceedings for granting or denying probation have been disposed of. If in the opinion of the court there is a reasonable ground of believing a defendant insane, the court may extend the time for pronouncing sentence until the question of insanity has been heard and determined, as provided in this code.

NOTE. Amended to provide for case tried by the court without a jury, and to limit it to the superior court, in view of Section 690. Inferior courts covered by Section 1449.

SEC. 124. Section 1193 of said code is amended to read:

1193. Judgment upon persons convicted of commission of crime shall be pronounced as follows:

1. If the conviction be for a felony, the defendant must be personally present when judgment is pronounced against him, unless, after the

exercise of reasonable diligence to procure the presence of the defendant, the court shall find that it will be in the interest of justice that judgment be pronounced in his absence; provided, that when any judgment imposing the death penalty has been affirmed by the appellate court, sentence may be reimposed upon the defendant in his absence by the court from which such appeal was taken, and in the manner following, to wit: Upon receipt by the superior court from which such appeal is taken of the certificate of the appellate court affirming such judgment, the judge of the said superior court shall forthwith make and cause to be entered an order pronouncing sentence against the defendant, and a warrant signed by the judge, and attested by the clerk under the seal of the court, must be drawn, and it must state the conviction and judgment and appoint a day upon which the judgment shall be executed, which must not be less than sixty days nor more than ninety days from the time of making such order; and that, within five days thereafter, a certified copy of such order, attested by the clerk under the seal of the court, and attached to the warrant, must, for the purpose of execution, be transmitted by registered mail to the warden of the state prison having the custody of the defendant and certified copies thereof must be transmitted by registered mail to the Governor; and provided further, that when any judgment imposing the death penalty has been affirmed and sentence has been reimposed as above provided there shall be no appeal from the order fixing the time for and directing the execution of such judgment as herein provided.

2. If the conviction be of a misdemeanor, judgment may be pronounced against the defendant in his absence.

NOTE. Due to amendments of the bill since it was introduced, this amendment makes no substantial change in the section. Subdivision 2 will apply to all cases in inferior courts, by reason of Section 690.

SEC. 125. Section 1195 of said code is amended to read:

1195. If the defendant has been released on bail, or has deposited money or property instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or of the money or property deposited, must, on application of the prosecuting attorney, direct the issuance of a bench warrant for the arrest of the defendant.

NOTE. Amended to cover the case of courts which have no clerk. Reference to property deposited inserted because of Section 1298. Issuance of bench warrant made mandatory on application of prosecutor.

SEC. 126. Section 1196 of said code is amended to read:

1196. The clerk, or the judge or justice, if there is no clerk, on application of the prosecuting attorney, must at any time after the order issue a bench warrant into one or more counties.

NOTE. Amended to cover the courts which have no clerk, and also those where attorneys other than the district attorney act as prosecutors and to make issuance of warrant mandatory. Words referring to the court as "sitting or not" were put in the section when there were terms of court. Now there are no such terms and the words are omitted as unnecessary.

SEC. 127. Section 1197 of said code is amended to read:

1197. The bench warrant must be substantially in the following form:

County of _____

The People of the State of California to any Peace Officer in this State: _____ (name of defendant) having been on the _____ day of _____, 19___, duly convicted in the _____ court of _____ (naming the court) of the crime of _____ (designating it generally), you are therefore commanded forthwith to arrest the above named defendant and bring him before that court for judgment.

Given under my hand with the seal of said court affixed, this _____ day of _____, 19___.

By order of said court.

_____
Clerk (or judge, or justice)

(SEAL)

NOTE. Designation of court made general, and name of defendant to be inserted only once instead of twice, and other small changes to make this as nearly as possible like other forms of warrant provided in the code. See Sections 814, 981, 1427. Warrant to be addressed to any peace officer.

SEC. 128. Section 1198 of said code is amended to read:

1198. The bench warrant may be served in any county in the same manner as a warrant of arrest.

NOTE. Amended to remove the exception that the warrant need not be endorsed by a magistrate in another county, as no longer needed. See note to Section 983.

SEC. 129. Section 1199 of said code is amended to read:

1199. Whether the bench warrant is served in the county in which it was issued or in another county, the officer must arrest the defendant and bring him before the court, or deliver him to any peace officer of the county from which the warrant issued, who must bring him before said court according to the command thereof.

NOTE. Amended to omit the provision for delivering the defendant to the officer mentioned in the warrant and insert other language for the same purpose. In the present form of warrant no other officer is mentioned. When this code was enacted in 1872, the form of warrant in Section 1197 contained provision for delivering the defendant to the sheriff if court had adjourned for the term, but this was eliminated by the code amendments of 1880, there being no terms of court under the Constitution of 1879.

SEC. 130. Section 1205 of said code is amended to read:

1205. A judgment that the defendant pay a fine, with or without other punishment, may also direct that he be imprisoned until the fine is satisfied and may further direct that such imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he may theretofore have been sentenced. Every such judgment must specify the extent of the imprisonment for nonpayment of the fine, which must not be more than one day for each two dollars ($2) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a

judgment that the defendant pay a fine may also direct that he pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he be imprisoned until the fine is satisfied in full; but unless such direction is given in the judgment, the fine shall be payable forthwith.

Except as otherwise provided in case of fines imposed as conditions of probation, the defendant must pay the fine to the clerk of the court, or to the judge or justice thereof if there is no clerk, unless the defendant is taken into custody for nonpayment of the fine, in which event payments made while he is in custody shall be made to the officer who holds him in custody and all amounts so paid shall be forthwith paid over by such officer to the court which rendered the judgment. The clerk shall report to the court every default in payment of a fine or any part thereof, or if there is no clerk, the court shall take notice of such default. If time has been given for payment of a fine or it has been made payable in installments, the court shall, upon any default in payment immediately order the arrest of the defendant and order him to show cause why he should not be imprisoned until the fine is satisfied in full. If the fine is payable forthwith and it is not so paid, the court shall, without further proceedings, immediately commit the defendant to the custody of the proper officer to be held in custody until the fine is satisfied in full. The provisions of this section shall apply to any violation of any of the codes or statutes of the State of California punishable by a fine or by a fine and imprisonment.

NOTE. This section is somewhat rearranged and in order to cover all courts includes matters now in Sections 1446, 1456 and 1457. New matter in the first sentence is intended to change the holding of *Ex parte Rosenheim* (1890), 83 Cal. 388 and *People* v. *Sayre* (1937), 26 Cal. App. 2d (Supp.) 757, that all imprisonment for nonpayment of fines runs concurrently with other imprisonment.

Express statement is made of the rule, probably implicit in present provisions, that a defendant held for a fine gets credit on it for time in jail, so that when he is released the fine is paid.

Several provisions inserted to take care of courts which have no clerks.

Present direction that fine be paid to clerk (or judge) is qualified in probation cases and also where defendant is in custody for nonpayment. The usual practice of making payment to the detaining officer is stated. Apparently it is not now provided in the code.

This section will apply in the inferior courts, by virtue of proposed Section 690 and the proposed repeal of Section 1446, the limitation that imprisonment for nonpayment of fine cannot exceed the maximum imprisonment possible as a punishment. No reason appears why this rule should not apply to inferior as well as superior courts, but now it does not, as far as Section 1446 is concerned.

SEC. 131. Section 1207 of said code is amended to read:

1207. When judgment upon a conviction is rendered, the clerk, or if there is no clerk, the judge or justice, must enter the same in the minutes, stating briefly the offense for which the conviction was had, and the fact of a prior conviction, if any. A copy of the judgment of conviction shall be filed with the papers in the case.

NOTE. Words inserted to cover courts which have no clerk.

SEC. 132. Section 1213 of said code is amended to read:

1213. When a judgment, other than of death, has been pronounced, a copy of the entry thereof, certified by the clerk of the court, or by the judge or justice if there is no clerk, must be forthwith furnished to the

officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution.

NOTE. Changed by eliminating the requirement that the judge certify the copy of the judgment, except in courts where there is no clerk. This makes the section conform to Section 1455 now applicable to inferior courts, which does not specify who is to certify. In some of the inferior courts where a great many cases are heard in a day, the making of these certificates would cast a large and unnecessary burden on the judge. The requirement that the judge certify in superior court cases carries with it an unfounded implication that the clerk cannot be trusted to do so correctly and should be abandoned in cases covered by this section. In death cases the judge's certificate is required by Section 1217 which is to be left unchanged.

SEC. 133. The heading of Title 9, Part 2 of said code is amended to read:

TITLE 9. APPEALS FROM SUPERIOR COURTS

NOTE. This title covers appeals to the district courts of appeal as well as the Supreme Court to which the present heading is limited. The proposed change is shorter than to add the other appellate court.

SEC. 134. Section 1235 of said code is amended to read:

1235. Either party to a criminal action within the original trial jurisdiction of a superior court may appeal from that court on questions of law alone, as prescribed in this title and in rules adopted by the Judicial Council. The provisions of this title apply only to such appeals.

NOTE. It is thought best to confine the application of this title to appeals from the superior courts, leaving appeals from other courts to be provided for in the special chapter on that subject (Sections 1466, et seq.). Unless some contrary provision is inserted here, Section 690 as proposed would apply this title to all appeals. The present description of the cases referred to will not prevent this because of the use of the word "complaint". Hence, it is changed as above set forth. "Prosecution" changed to "criminal action" as more in accord with Section 683. "Original trial jurisdiction" will exclude cases tried in the superior court on appeal from Class B courts under Section 1469.

SEC. 135. Section 1237 of said code is amended to read:

1237. An appeal may be taken by the defendant:

1. From a final judgment of conviction;

2. From an order denying a motion for a new trial;

3. From any order made after judgment, affecting the substantial rights of the party;

4. From an order granting or denying probation.

SEC. 136. Section 1238 of said code is amended to read:

1238. An appeal may be taken by the people:

1. From an order setting aside the indictment, information, or complaint;

2. From a judgment for the defendant on a demurrer to the indictment, accusation or information;

3. From an order granting a new trial;

4. From an order arresting judgment;

5. From an order made after judgment, affecting the substantial rights of the people;

6. From an order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed.

SEC. 137. Section 1243 of said code is amended to read:

1243. An appeal to the Supreme Court or to a district court of appeal from a judgment of conviction stays the execution of the judgment in all cases where sentence of death has been imposed, but does not stay the execution of the judgment in any other case unless the trial or appellate court shall so order. The granting or refusal of such order shall rest in the discretion of the court. If such order is made, the clerk of the court shall issue a certificate stating that such order has been made.

NOTE. Words regarding stay of death sentence inserted. While such stay is implied from provision for confinement pending appeal, it seems better that it be expressly stated. Until 1935 the words now inserted were in the section, but they were then omitted by the same amending act which inserted in Section 1239 the provision for an automatic appeal in death cases. The reason for the omission here is not apparent.

Last sentence of present section, regarding confinement of one under death sentence pending appeal, is omitted because now fully covered by Sections 3600, 3601 and 3602, as well as Section 1217.

SEC. 138. Section 1247e of said code is repealed.

NOTE. This matter is covered to the same effect by the Rules on Appeal (Rules 35 and 37), and this section should be repealed to have the field clear for the rules.

SEC. 139. Section 1262 of said code is amended to read:

1262. If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the appellate court shall otherwise direct. If the appellate court directs a final disposition of the action in the defendant's favor, the court must, if he is in custody, direct him to be discharged therefrom; or if on bail that his bail may be exonerated; or if money or other property was deposited instead of bail, that it be refunded to the defendant or to the person or persons found by the court to have deposited said money or other property on behalf of said defendant.

NOTE. This section as now worded constitutes a trap for the appellate court. (See *In re Hampton* (1929) 98 Cal. App. 480). In civil cases, with which such courts most commonly deal, a reversal of a judgment without further order results in a new trial (2 Cal. Jur. 1057) while this section now declares a contrary rule for criminal cases. Occasionally this rule has been overlooked in entering the orders on appeal, with unfortunate results. Reference to other property inserted because of Section 1298.

SEC. 140. Section 1326 of said code is amended to read:

1326. The process by which the attendance of a witness before a court or magistrate is required is a subpena; it may be signed and issued by:

1. A magistrate before whom a complaint is laid, for witnesses in the State, either on behalf of the people or of the defendant.

2. The district attorney, or, upon request of the grand jury, any judge of the superior court, for witnesses in the State, in support of the prosecution, for those witnesses whose testimony, in his opinion, is material in an investigation before the grand jury, and for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

3. The district attorney, or, upon request of the grand jury, any judge of the superior court, for witnesses in the State, in support of an indictment or information, to appear before the court in which it is to be tried.

4. The clerk of the court in which a criminal action is to be tried, or if there is no clerk, the judge or justice of the court; and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpenas, subscribed by him, for witnesses in the State, as the defendant may require.

NOTE. Subdivision 4 changed by inserting "criminal action" for "indictment or information" to make the provision of general application, and provision for courts having no clerk added because some justices' courts have no clerks.

SEC. 141. The heading of Chapter 8, Title 10, Part 2 of said code is amended to read:

CHAPTER 8. DISMISSAL OF THE ACTION FOR WANT OF PROSECUTION OR OTHERWISE

NOTE. Reference to indictment omitted, as this chapter covers all forms of prosecution.

SEC. 142. Section 1382 of said code is amended to read:

1382. The court, unless good cause to the contrary is shown, must order the action to be dismissed in the following cases:

1. When a person has been held to answer for a public offense and an information is not filed against him, within fifteen days thereafter.

2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial in a superior court within sixty days after the finding of the indictment, or filing of the information, or in case a new trial is to be had following an appeal from the superior court within sixty days after the filing of the remittitur in the trial court.

3. Where the trial has not been postponed upon the defendant's application, if the defendant in a misdemeanor case in an inferior court, is not brought to trial within thirty days after he is arrested and brought within the jurisdiction of the court, or in case a new trial is to be had following an appeal from an inferior court, if the defendant is not brought to trial within thirty days after the remittitur is filed in the trial court or within thirty days after the judgment on appeal becomes final if the new trial is to be held in the superior court.

NOTE. The provisions regarding a new trial after an appeal are inserted because it has been held that the section as now worded does not cover such a case. (*In re Alpine* (1928) 203 Cal. 731, 739; *People* v. *Marshall* (1930), 209 Cal. 540, 546.) The same limit should apply as to the original trial, it seems. Subdivision 3 is also changed so as to apply it to all inferior courts. There appears to be no good reason for a distinction between them in this matter; but subdivision 3 as now worded has been held not applicable to municipal courts. (*People* v. *Molinari* (1937), 23 Cal. App. 2d (Supp.) 761, 764); and the same reasoning would apply to other courts not named, such as city and police courts.

SEC. 143. Section 1385 of said code is amended to read:

1385. The court may, either of its own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the minutes. No dismissal shall be made for any cause which would be ground of demurrer to the accusatory pleading.

NOTE. The Legislature in 1945, by adding Sections 1428.1, 1428.2, and 1428.3 to the code, provided for demurrers in the lower courts and this provision will be

continued by proposed Sections 690 and 1004, et seq., so there is no longer any necessity, in any court, of raising objections to the pleading on motion to dismiss. While it has been pointed out, in *People* v. *Ellis* (1928), 204 Cal. 39, 42, that this section confers on the defendant no privilege of making a motion to dismiss, such motions are in fact often made and sometimes granted on grounds which could be raised on demurrer (see *People* v. *Ellis, supra*, for an instance). It is quite common, at least in the lower courts, for the defendant to defer the making of such a motion until he has been placed in jeopardy, thus depriving the people of any opportunity to secure a review of the ruling when the motion is granted. While there was some excuse for this procedure when no demurrer or other mode of raising the objection was provided, that excuse has now been dissipated, and the procedure should be affirmatively prohibited. "Or indictment" omitted as unnecessary. If the action is gone, so are the pleadings.

SEC. 144. Section 1387 of said code is amended to read:

1387. An order for the dismissal of the action, made as provided in this chapter, is a bar to any other prosecution for the same offense if it is a misdemeanor, but not if it is a felony.

NOTE. The whole provision for amending the complaint is omitted. It is ineptly worded, for it is difficult to see how the complaint in an action can be amended after the action is dismissed, and hence the courts have had to construe it to mean something other than what it says. The whole subject of amendments in misdemeanor cases will be covered by proposed Sections 1007, 1008, and 1009.

SEC. 145. The heading of Title 11, Part 2 of said code is amended to read:

TITLE 11. PROCEEDINGS IN INFERIOR COURTS AND APPEALS TO SUPERIOR COURTS

SEC. 146. The heading of Chapter 1, Title 11, Part 2 of said code is amended to read:

CHAPTER 1. PROCEEDINGS IN INFERIOR COURTS

NOTE. The present enumeration of courts in these headings is incomplete. "Inferior courts," which is substituted, is defined by proposed Section 691 so as to include all courts below superior courts.

SEC. 147. Sections 1426 and 1426.1 of said code are repealed.

NOTE. (1426) The first part of this section, prescribing the mode of procedure, is transferred in substance to proposed Section 740. All other provisions of this section wil be covered by the chapter on Rules of Pleading (Sections 948, et seq.) which will be made applicable to complaints by proposed Section 690.

NOTE. (1426.1) This section will be covered by the proposed amendment of Section 988 and proposed Section 690.

SEC. 148. Section 1427 of said code is amended to read:

1427. (a) When a complaint is presented to a judge or justice of an inferior court of the commission of a public offense appearing to be triable in his court, he must, if satisfied therefrom that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, issue a warrant, for the arrest of the defendant.

(b) Such warrant of arrest and proceedings upon it, shall be in conformity to the provisions of this code regarding warrants of arrest, and it may be in the following form:

County of _____

The People of the State of California, to any peace officer in this State:

Complaint upon oath having been this day made before me that the offense of _____ (designating it generally) has been committed and accusing _____ (name of defendant) thereof, you are therefore commanded forthwith to arrest the above named defendant and bring him forthwith before the _____ court of _____ (stating full title of court) at _____ (naming place).

Witness my hand and the seal of said court this _____ day of _____, 19____.

(Signed)

_____

Judge (or justice) of said court

If it appears that the offense complained of has been committed by a corporation, no warrant of arrest shall issue, but the judge or justice must issue a summons substantially in the form prescribed in Section 1391. Such summons must be served at the time and in the manner designated in Section 1392. At the time stated in the summons the corporation may appear by counsel and answer the complaint.

NOTE. The requirement that the judge be satisfied that *the defendant* has committed the offense is inserted for the defendant's protection if that fact should not appear, conforming to Section 813 in this respect. Name of complainant is omitted from form of warrant as that information seems unnecessary there. Defendant's name is to be written in warrant only once, instead of twice as now required. Warrant will require defendant to be brought before court, instead of judge issuing it, as now. Many inferior courts have more than one judge and there is no good reason for the present limitation, as any such judge can proceed with the case. Last sentence omitted because covered by Section 1024, made applicable by proposed Section 690.

SEC. 149. Section 1428 of said code is amended to read:

1428. A docket must be kept by the judge or justice of the peace or police justice of each inferior court having jurisdiction of criminal actions or proceedings, or by the clerk of such court, if there is one, in which must be entered the title of each criminal action or proceeding and under each title all the orders and proceedings in such action or proceeding. Wherever by any other section of this code made applicable to such courts an entry of any judgment, order or other proceeding in the minutes is required, an entry thereof in the docket shall be made and shall be deemed a sufficient entry in the minutes for all purposes, except in the cases provided for by Section 1428a.

NOTE. The first sentence is the present section rewritten without any change in meaning unless the requirement that entries be under the title is such, and that is probably an implication from present provisions and corresponds to the practice, as far as known. "Criminal action" substituted for "case" to conform to Section 683. "Inferior courts" defined in proposed Section 691 used instead of enumerating the courts.

The last sentence is new. Many of the sections which will be made applicable to these courts by Section 690 as proposed have requirements for entries "in the minutes." It seems easier and better to take care of their application to courts not

keeping "minutes" by this general provision than by amending the individual sections in this respect, even though some are amended for other purposes. If the latter course were followed some might be overlooked.

SEC. 150. Sections 1428.1, 1428.2, and 1428.3 of said code are repealed.

NOTE. These sections were added in 1945 to authorize demurrers in inferior courts. That object will be accomplished by the proposed amendments of Sections 1004, et seq., and by proposed Section 690, so these sections are no longer necessary and should be repealed.

SEC. 151. Section 1429 of said code is amended to read:

1429. In the case of a misdemeanor triable in any inferior court the plea of the defendant may be made by said defendant or by his counsel. When made, the plea must be entred in the minutes. If such defendant pleads guilty, the court may, before entering such plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed; and if it appear to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail, to answer any indictment which may be found against him by the grand jury, or any complaint which may be filed charging him with such higher offense.

NOTE. Provisions regarding pleas omitted because now directly covered by Sections 1016, et seq., which are made applicable in all courts by proposed Section 690 and altered to fit all courts by individual amendments. The remainder of this section is retained, with a new introduction expressly limiting it to misdemeanors—a limitation which was obvious from words now omitted. "Inferior courts" defined in proposed Section 691. "Information" changed to "complaint" as the latter comes first.

SEC. 152. Sections 1430, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, and 1446 of said code are repealed.

NOTE. (1430) This matter covered by the general provisions on trial, made applicable here by proposed Section 690.

NOTE. (1433-1444) All these provisions are covered by the general provisions on trial and verdicts, made applicable here by proposed Section 690.

NOTE. (1446) This section will now be covered by Section 1205, by virtue of new Section 690.

SEC. 153. Section 1447 of said code is amended to read:

1447. When the defendant is acquitted in an inferior court, if the court certify in the minutes that the prosecution was malicious and without probable cause, it may order the complainant to pay the costs of the action, or to give satisfactory security by a written undertaking with one or more sureties, to pay the same within thirty days after the trial.

NOTE. Description of courts (see Section 691 for definition) inserted to make sure the section is limited to those courts. Provision for discharge on acquittal omitted because it will be covered by Section 1165, as amended, made applicable by proposed Section 690.

SEC. 154. Section 1449 of said code is amended to read:

1449. In inferior courts, after a plea, finding or verdict of guilty, or after a finding or verdict against the defendant in a plea of former conviction or acquittal, or once in jeopardy, the court must appoint a time for pronouncing judgment which must not be less than six hours, nor more than five days, after the verdict or plea of guilty, unless the defendant waives the postponement; provided, however, that the court may extend the time not more than ten days for the purpose of hearing

or determining any motion for a new trial, or in arrest of judgment; and, provided, further, that the court may extend the time not more than twenty days in any case where the question of probation is considered; provided, however, that upon request of the defendant such time may be further extended not more than ninety days additional. In case of a postponement, the court may hold the defendant to bail to appear for judgment. If in the opinion of the court there is a reasonable ground for believing a defendant insane, the court may extend the time of pronouncing judgment and may commit the defendant to custody until the question of insanity has been heard and determined.

In the event that the defendant is a veteran who was discharged from service for mental disability, upon his request his case shall be referred to the probation officer, who shall secure a military medical history of such defendant and present it to the court together with his recommendation for or against probation.

NOTE. The amendment is to limit the section to inferior courts (inserted because of proposed Section 690) and also to provide for cases tried by the court without a jury. It also authorizes commitment of defendant where his sanity is in question.

SEC. 155. Sections 1450, 1451, 1452, 1453, 1454, 1455, and 1456 of said code are repealed.

NOTE. (1450-1453) These sections will be covered by Sections 1181, 1185, 1186, and 1187, under proposed amendments.

NOTE. (1454) This is now a duplication of first part of Section 1447; both will be covered by Section 1165 as amended.

NOTE. (1455, 1456) This subject will be covered by Section 1213 as amended, Section 1214 and Section 1215 as amended. Section 1214 will allow, but does not require, execution on inferior court fines, which has not been heretofore possible.

SEC. 156. Section 1458 of said code is amended to read:

1458. The provisions of this code relative to bail are applicable to bail in cases triable in inferior courts. The defendant, at any time after his arrest and before conviction, may be admitted to bail. The undertaking of bail in such a case shall be in substantially the following form:

A complaint having been filed on the _____ day of _____ 19___, in the _____ court of _____ County of _____ (stating title and location of court) charging _____ (naming the defendant) as defendant with the crime of _____ (designating it generally) and he having been admitted to bail in the sum of _____ dollars (stating amount);

We _____ and _____ of _____ (stating their places of residence and occupation) hereby undertake that the above named defendant will appear and answer the complaint above mentioned and all duly authorized amendments thereof, in whatever court it may be prosecuted, and will at all times hold himself amenable to the orders and process of the court, and, if convicted, will appear for judgment and render himself in execution thereof; or if he fails to perform either of these conditions, that we will pay to the People of the State of California the sum of _____ dollars (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond is ordered by the court, judgment may be summarily made and entered forthwith against the said _____ (naming the sureties and the defendant if he is a party to the bond) for

the amount of their respective undertakings herein, as provided by Sections 1305 and 1306 of this code.

NOTE. Rearranged. Designation of courts changed from justices' or police courts to inferior courts. Form of bail undertaking added because no form elsewhere provided fits this case.

SEC. 157. Sections 1459 and 1460 of said code are repealed.

NOTE. (1459) This will be covered by Section 1326 (as amended) and Sections 1327 and 1332, which, if not already applicable, will be made so by proposed Section 690.

NOTE. (1460) Covered by proposed Section 690.

SEC. 158. Section 1461 of said code is amended to read:

1461. The term "police court" as used in this chapter, includes police judges' courts, police courts, city courts and all courts held by mayors or recorders in incorporated cities or towns; provided, that while hearing and disposing of cases of which such police courts have concurrent jurisdiction with justices' courts, said police courts shall function as police courts and not as justices' courts, and all fines collected in such cases shall be paid to the city treasurer of the city in which such court is located, as expressly provided in Sections 1457 and 1570 of this code.

NOTE. "Succeeding chapter" omitted because the term defined will not appear there after amendments proposed. "City courts" inserted because of use of that term in municipal corporation act (Sections 806, 882) naming courts in cities of fifth and sixth classes.

SEC. 159. Section 1461a of said code is repealed.

NOTE. This subject covered more generally in proposed Section 690, which applies to other inferior courts as well as municipal courts.

SEC. 160. Section 1466 of said code is amended to read:

1466. An appeal may be taken from a judgment or order of an inferior court, in a criminal case, to the superior court of the county in which such inferior court is located, in the following cases:

1. By the people:

(a) From an order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy;

(b) From a judgment for the defendant upon the sustaining of a demurrer;

(c) From an order granting a new trial;

(d) From an order arresting judgment;

(e) From any order made after judgment affecting the substantial rights of the people.

2. By the defendant:

(a) From a final judgment of conviction;

(b) From any order made after judgment affecting his substantial rights;

(c) From an order denying a motion for a new trial;

(d) From an order granting or denying probation.

NOTE. "Inferior court" substituted for the enumeration. See definition in proposed Section 691. Amended to change "without trial" to the phrase above. It has been argued that the present language is to be interpreted like C. C. P. Section 581, subsection 1 and means at any time before submission. While this argument was rejected by the L. A. App. Dept. in *People* v. *Matiasevich* (1936), 12 C. A. 2d (Supp.) 759, and this provision limited to cases where defendant has not been in jeopardy, it seems better to write this into the section and avoid further argument. A new paragraph (b) is added to subdivision 1 in view of the proposed provision (Section 1004, et seq.) for a demurrer in the lower courts. A new paragraph (d) is added to subdivision (2). The defendant sometimes feels aggrieved by an order granting probation, as where he claims the conditions are not authorized by law or unreasonable, and there is at present no mode of presenting this question by appeal, at least if pronouncing of judgment is suspended by the probationary order. If judgment is pronounced perhaps either the granting or denial of probation may be reviewed on the theory that it is an order after judgment, but this may be doubtful and it seems better to make an express provision on the subject. If there is no judgment and defendant fails to move for a new trial, there is at present no means by which he can obtain a review of his conviction on appeal.

SEC. 161. Section 1467 of said code is repealed.

NOTE. The subject of this section is more fully covered by Rule 2 of the Judicial Council rules, which are to be sanctioned by amendment of Section 1468. This subject is now covered by rules in case of appeals from the superior court, and the practice in this respect should be uniform.

SEC. 162. Section 1467 is added to said code, to read:

1467. An appeal to the superior court from a judgment of conviction does not stay the execution of the judgment in any case unless the trial or superior court shall so order. The granting or refusal of such order shall rest in the discretion of the court.

NOTE. In view of the decision of *In re Hudspeth* ((1929) 100 Cal. App. 478) that an appeal to the superior court stays the execution of judgment in the absence of statutory authority to the contrary, a person not admitted to bail pending the determination of his appeal after a misdemeanor conviction receives no credit for time served in the county jail prior to the remittance of the judgment by the superior court to the court below. It is, therefore, proposed that the foregoing section be enacted to provide that an appeal from an inferior court does not automatically stay the execution of judgment just as Section 1243 now provides for a stay of execution upon appeal from the superior court.

SEC. 163. Section 1468 of said code is amended to read:

1468. Appeals to the superior courts shall be taken, heard and determined, the decisions thereon shall be remitted to the inferior courts, and the records on such appeals shall be made up and filed in such time and manner as shall be prescribed in rules adopted by the Judicial Council.[1]

NOTE. "Adopted" in place of "promulgated" to correspond to 1945 amendment of Section 1246. Last sentence of present section omitted, as in 1945 amendment of Section 1246, because no longer necessary since the adoption of rules by the Judicial Council. The word "taken" is inserted so that Section 1467 may be repealed. The whole matter of taking appeals to the superior court is now covered by Rule 2 of the rules adopted by the Judicial Council for such appeals.

[1] Assembly Bill 2599 was unanimously passed by the Assembly. Tabled by Senate Judiciary Committee.

PART III

Matters Concerning Which the Commission Recommends Future Study, Investigation and Legislation

Matters Concerning Which the Commission Recommends Future Study, Investigation and Legislation

From its study in the last eighteen months, the commission is convinced that the study, examination, evaluation and revision of the criminal law is a continuing function of a well-organized government. The Penal Code and other statutes defining offenses and providing punishments are merely instrumentalities for the administration of criminal justice. Outworn concepts and techniques must be cleared from the statute books to keep pace with our continually changing society. The marked conceptual changes relating to crime and punishment which have achieved general acceptance deserve to be studied to the end that appropriate legislation be enacted. Careful and thorough research is of the essence of such investigation. Both existing law and proposed changes should be completely explored and analyzed.

In the field of criminal law there is a need for something more than the sporadic efforts of a series of temporary study groups whose endeavors are often little noted nor long remembered.

A commission such as the present Commission on Criminal Law and Procedure composed of individuals who are engaged full time in other activities was not able in the short period allotted and without the assistance of a research staff of sufficient numbers, effectively to undertake the type of study this subject so well deserves.

In accordance with this thinking, the commission recommends that legislation be enacted establishing a permanent commission for the study of criminal law and procedure;[1] that such commission consist of five nonpaid regular members to be appointed by the Governor for five-year staggered terms, with the chairmen of the Senate and Assembly Judiciary Committees as ex officio members. The commission further recommends that the regular membership consist of one public defender, one district attorney, one professor of criminal law or dean of an established law school and two members of the State Bar. Experience unquestionably indicates that for such a commission properly to function it is necessary that there should be a full-time paid staff of at least three research attorneys and proper secretarial assistance.

The duties of such a commission should be:

(1) To examine the entire structure of the criminal law in the light of current judicial decision for the purpose of eliminating anachronisms and defects;

(2) To receive and consider proposed changes and suggestions relative to the criminal law from all sources;

(3) Annually to report to the Governor and the Legislature and to propose legislation giving effect to its revisory program.

[1] Law revisory bodies are not without precedent in the machinery of other jurisdictions. The New York Law Revision Commission represents the approach of one state to the problem.

To such a commission or to some other appropriate group, this commission respectfully recommends the following:

A. GENERAL SUBJECTS FOR LEGISLATION

1. *Observation Period on Entry of Plea of Not Guilty by Reason of Insanity*

The commission believes that the present procedure for examination of defendants who have interposed a plea of "not guilty by reason of insanity" is inadequate and not conducive to the protection either of society or of the defendant. Often the court-appointed psychiatrist is hampered in diagnosis by lack of proper clinical facilities. Research indicates that the State of Colorado has a statute [2] providing for an observation period in a state hospital for a defendant who enters such a plea.

The commission believes that the use of such an observation period would tend to reduce the number of frivolous insanity pleas when a defendant realizes that doctors having an opportunity to observe and study him would report their findings to the court. Furthermore, such a procedure would better protect the rights of the defendant who is suffering from mental derangement since his mental condition would be thoroughly diagnosed and the true facts presented to the court.

The commission recognizes that the present hospital facilities of this State are not equipped for the immediate introduction of such a procedure. A maximum security institution for detention is a necessary prerequisite to the adoption of this plan.

The commission, therefore, recommends that when and if the State provides adequate facilities for the observation and diagnosis of defendants who interpose a plea of not guilty by reason of insanity, legislation be adopted to provide that upon the making of such plea the judge shall forthwith commit the defendant to an institution where he shall remain under observation for a period not to exceed thirty days or until such time as the hospital physicians shall have filed their report concerning the defendant's mental condition.

2. *Pleading and Proof of Prior Felony Convictions*

Section 644 of the Penal Code, the Habitual Criminal Act, read in conjunction with Sections 3047.5 and 3048.5 of said code, provide a minimum sentence for one convicted of a felony after having been twice or three times, respectively, previously convicted of the offenses enumerated in said Section 644.

Section 3024 of the Penal Code provides a minimum term of imprisonment for a person convicted of a felony who has been previously convicted of a felony and was not armed with a deadly weapon at the time of his commission of the offense and a minimum term of ten years for a person previously convicted of a felony and armed with a deadly weapon.

In order that a defendant shall be sentenced as provided either in Section 644 or Section 3024 of the Penal Code it is incumbent upon the district attorney to charge the prior felony conviction and in the case of Section 644 it is also necessary that service of a term of imprisonment for the prior offense or offenses be likewise pleaded and proven.

Section 969a of the Penal Code requires that the district attorney charge prior felony convictions where the same are discovered.

[2] COLO. STATS. ANN. (1935) Sec. 508, Ch. 48.

It has come to the attention of the commission that the pleading and proving of prior felony convictions under Sections 644 and 3024 is not consistent throughout the State. The result of a disregard of the statutes is that there is no uniform application of those provisions of law which thus aggravate punishment. Whether a defendant shall suffer an augmented penalty now depends upon whether the individual prosecuting official charges such prior conviction or convictions. Such a condition places an additional burden upon prison officials and tends to destroy the morale in state prisons. Common justice dictates that the application of such statutes be uniform.

The commission therefore recommends that legislation be enacted requiring the Adult Authority to return a convicted defendant who has suffered a prior conviction which was not pleaded or proven to the county from whence he came for the purpose of having said prior conviction charged and proven; that it shall then be the duty of the district attorney of such county to charge and prove such prior conviction or convictions and that the expense of returning said prisoner shall be a charge against the county from which the prisoner was committed.

It is further recommended that the law be clarified so that the following may be readily ascertained:

First: Whether the prior felony conviction referred to in Sections 644, 667, 969, 1203, 3024 and 3045 of the Penal Code refers to offenses which were felonies in the state where committed or whether said sections refer only to offenses which would constitute felonies if committed within the State of California.

Second: Which of said sections above enumerated requires that a defendant shall have served a term of imprisonment in a state prison or a federal penal institution for such prior felony conviction.

Third: Which of said sections requires that such prior conviction and service of a term in a state prison or federal penal institution must be pleaded and proven.

3. *Prohibition Against Use of Guilty Plea or Record of Conviction in Subsequent Civil Actions*

Vehicle Code Section 755 makes inadmissible in any court in any civil action a record of conviction of any person for any violation of that code. Many cases, however (e.g., *Burbank* v. *McIntyre* (1933) 135 Cal. App. 482, 485-6), have distinguished between a "record of conviction" and a "plea of guilty." There are no other statutory restrictions upon the use of a guilty plea in a subsequent civil action to which a criminal defendant is a party. The result is that a party in a civil action is frequently penalized by the admission in evidence of such plea.

It is the consensus of the commission that there are substantial and meritorious considerations which militate against the continuance of the present use of the guilty plea in a subsequent civil case. The effect of such use of the guilty plea is that a defendant who has pleaded guilty is doubly penalized. He not only has subjected himself to criminal penalties, he has also opened the door to civil liability. On the other hand, the defendant who has denied his guilt and later been *found* guilty escapes this double burden. It would not appear to be the proper function of either the criminal law or the rules of evidence to foster such an

unfair result. The elimination of this rule of case law should encourage the entry of a plea of guilty in criminal cases in proper circumstances.

The recognition of the problem above outlined has, in some jurisdictions, resulted in the introduction of the *nolo contendere* plea, which may be entered in the discretion of the court. This approach has not commended itself to the commission. The superimposition of a new plea upon our present criminal system would probably entail confusion and uncertainty.

The commission, therefore, recommends:

(a) That Section 755 [3] of the Vehicle Code be amended to read:

"No plea of guilty or record of conviction of any person for any violation of this code, shall be admissible as evidence in any civil action brought against such person; except, however, that said person may be impeached as provided in Section 2051 of the Code of Civil Procedure."

(b) That a new Section 1870.5 be added to the Code of Civil Procedure, to read as follows:

"No plea of guilty to any public offense or record of conviction of such offense shall be admissible as evidence in any civil action brought against a person so pleading or convicted; except, however, that such person may be impeached as provided in Section 2051 of this code."

4. Use of Certified Records for the Purpose of Establishing Evidence of Probationary Prior Convictions of Felony or of Prior Petty Theft

Penal Code Section 969b permits the use of properly certified records of any state or federal penitentiary as prima facie evidence that a defendant has been previously convicted of a felony and has served a term in a penal institution.

The commission recommends that Section 969b of the Penal Code be amended to provide that for the purpose of establishing, in appropriate instances, prima facie evidence of the fact that a person being tried for a crime or public offense has suffered a previous felony conviction for which he received probation or has previously been convicted of petty theft in this State or elsewhere, the record of such prior conviction or a copy thereof, certified by the official custodian of such records, may be introduced as such evidence.

5. Probation Reports

The commission believes that the system of informing the court of the social history and criminal record of a convicted defendant through the medium of a probation report in cases where such report is authorized is indispensable to the fair administration of criminal justice. Such report achieves its greatest effectiveness when the most complete factual presentation possible is made. Defendants often divulge extremely confidential information to the court and probation officer through this channel. The present law provides no safeguard for such confidences. They become a matter of public record and, as such, are available to all. Thus, an instrument designed to make possible the rehabilitation of an

[3] In the proposed redrafting of Section 755 of the Vehicle Code specific authorization for the use of such record or plea for the limited purpose of impeachment by showing a prior felony conviction is given. The clause relating to testimony is deleted because it does not appear to be intelligible as it now exists.

offender may be used for ulterior purposes. It is to be recognized that while certain agencies have a proper interest in the subject matter of such reports the defendant is also entitled to protection from those who would seek to exploit him.

The commission therefore recommends that legislation be enacted directing the county clerk to provide similar facilities for the filing and safekeeping of probation reports as the law presently provides for the filing and safekeeping of adoption proceedings. The probation reports should only be made available to the court, district attorney, peace officers, counsel for the defendant, and other persons upon order of the court.

In order that the court may have sufficient time to study the report of the probation officer, the commission further recommends that Section 1203 be amended to provide that said reports shall be presented to the court at least three days prior to the date set for report and sentence.

6. Admission to Bail After Plea of Guilty at Preliminary Examination

Article I, Section 8 of the California Constitution, and Section 859a of the Penal Code provide that if at the time the defendant appears for his preliminary examination for an offense triable in the superior court he enters a plea of guilty thereto, the magistrate shall immediately commit him to the sheriff and certify the case to the superior court.

No provision is made for bail after such plea. The result is that the defendant who pleads guilty at the preliminary examination is remanded into custody and his bail is exonerated and if he is later admitted to bail in the superior court he may have to pay an additional premium. On the other hand, the defendant who is held to answer by the inferior court after a preliminary examination may be continued on the same bail originally filed until the matter has been finally disposed of in the superior court.

The practical effect of this constitutional and statutory mandate is that persons charged with crime who might otherwise plead guilty before the magistrate at the preliminary examination now plead not guilty and are held to answer in order that they may preserve their eligibility to bail.

The commission therefore recommends that the Constitution and statute be amended to permit a defendant who has pleaded guilty at a preliminary examination to be admitted to bail in the same manner as the defendant who has been held to answer to the superior court; and that provision be made that one bail and one premium carry the defendant through all stages of the proceeding to and including the final disposition of his case in the superior court.

7. Mayhem

Section 203 of the Penal Code now provides as follows:

"Every person who unlawfully and maliciously deprives a human being of a member of his body, or disables, disfigures, or renders it useless, or cuts or disables the tongue or puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem."

The courts have held that specific intent is not an element of the offense now set forth. (*People* v. *Nunes* (1920) 47 Cal. App. 346.) The result is that injuries of the character above set forth unintentionally

inflicted in a fight, come within the scope of the offense. The present California view would appear to be in conflict with that of most American jurisdictions, some thirty of which appear to make specific intent a statutory element of the offense.

The matter is of serious consequence when Section 203 is viewed in connection with Section 189 of the Penal Code which defines degrees of murder and provides as follows:

> "Sec. 189. All murder which is perpetrated by means of poison, or lying in wait, torture, or by any other kind of wilful, deliberate, and premeditated killing, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or *mayhem*, is murder of the first degree; and all other kinds of murders are of the second degree." (Emphasis added.)

The commission therefore recommends that Section 203 of the Penal Code be amended to provide:

> "Every person who unlawfully, maliciously *and intentionally* deprives a human being of a member of his body, or disables, disfigures, or renders it useless, or cuts or disables the tongue, or puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem."

8. Penalty Revisions of Sections 286 and 288a of the Penal Code

It is the opinion of the commission that the offenses denounced by Sections 286, 288 and 288a of the Penal Code are so closely related that the disparity of punishment reflected therein cannot be justified. The consensus of expert medical opinion indicates that such conduct may have its roots in the mental condition of the offender. Opinion is divided as to proper methods of treatment of such offenders; however, most psychiatrists have expressed the belief that no certain method of cure has yet been developed. The Adult Authority of this State has recommended that it should have the widest discretion in determining the term of incarceration for those convicted of these offenses.

The commission, therefore, recommends that the punishment provision of Sections 286 and 288a of the Penal Code be amended to provide for imprisonment in a state prison for not less than one year as is now provided for a violation of Section 288 of said code.

9. Adequate Court Facilities

The proper administration of justice demands that suitable facilities be provided for the hearing of both criminal and civil matters, which facilities would include an adequate courtroom, sufficient personnel, and books and records. At the present time some of the inferior courts in this State are not properly housed nor sufficiently staffed and equipped. The adoption of the program of the Judicial Council for the reorganization of the inferior courts would remedy this situation. However, it is impossible for that court plan to be effective until 1951.

Therefore, the commission urges that in the meantime each county exert every effort to provide its inferior courts with the above-mentioned facilities.

10. Requirement That the Number of the Code Section or Statute Defining the Offense Be Set Forth in an Accusatory Pleading and Commitment

The Department of Corrections has indicated that in a considerable number of instances where a person is sentenced to a state institution neither the accusation pleading nor commitment recites the statute for the violation of which he was convicted.

The commission recommends that it be made mandatory that the accusatory pleading and commitment contain the number of the section that the defendant is charged with having violated.

B. SPECIFIC STATUTORY AMENDMENTS

The commission recommends the following changes in specific Penal Code sections:

Amend Section 1 to read:

> "This act shall be known as the Penal Code of California."

Amend Section 4 to read:

> "The rule of the common law, that penal statutes are to be strictly construed, has no application to any statute defining a public offense. All of its provisions are to be construed according to the fair import of its terms, with a view to effect their objects and to promote justice."

Amend Section 7 by adding subsection 21 to provide:

> "21. The word 'county' shall include county or city and county, and the word 'city' shall include city or city and county."

Amend Section 8 to read:

> "Whenever, by any other provisions of this code or any other code, statute, or the Constitution of this State, an intent to defraud is required in order to constitute any offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate, whatever."

Amend Section 9 to read:

> "The omission to specify or affirm in this code or any other code, statute, or the Constitution of this State, any liability to damages, penalty, forfeiture, or other remedy imposed by law and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared and punishable therein, does not affect any right to recover or enforce the same."

Amend Sections 12, 13 and 14 to read in the same manner as Sections 8 and 9 are amended, by adding after the word "code," "or any other code, statute or the Constitution of this State."

Section 17. Although it has been called to the attention of the commission that there is a proposed amendment to Section 17 presently

pending before the 1949 Legislature, it is nevertheless the recommendation of the commission that Section 17 of the Penal Code be amended to read:

"A felony is a crime which may be punishable with death or by imprisonment in a state prison. Every other crime is a misdemeanor. When a crime, punishable by imprisonment in a state prison is also punishable by fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in a state prison, unless the court commits the defendant to the California Youth Authority. Where a court commits a defendant to the California Youth Authority upon conviction of a crime punishable by imprisonment in the state prison or fine or imprisonment in a county jail, or both, in the discretion of the court, the crime shall be deemed a felony until and unless the person committed has been discharged from the control of the California Youth Authority and if, during the period of such control, he has not been placed in a state prison by the said authority; upon such discharge such person shall thereafter be relieved from all penalties and disabilities resulting from the offense or crime of which he has been convicted. The Youth Authority shall notify the court of the disposition."

Amend Section 27 to read:

"SEC. 27. The following persons are liable to punishment under the laws of this State * * *.

"2. All who commit any offense without this State which, if committed within this State, would be theft, burglary or robbery under the laws of this State, and bring the property so obtained, or any part of it, or are found with it, or any part of it, within this State;

"3. All who, being without this State, cause or aid, advise or encourage, another person to commit any crime within this State."

Repeal Sections 99 and 100 and enact the substance now contained therein into sections of the Government Code; and amend the punishment provisions of said sections to eliminate the fine.

Repeal Sections 107, 109 and 110, and enact the substance now contained therein into the 4500 series of the Penal Code. In the event that this is done, Chapter 3 can be eliminated.

Renumber Sections 116 and 117 to 160 and 161, respectively.

Amend Section 133 to read:

"Every person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any witness or person about to be called as a witness upon any trial, proceeding, inquiry, or investigation whatever authorized by law, with intent to cause the witness to testify falsely, is punishable by imprisonment in the state prison not more than five years or by imprisonment in the county jail not more than one year."

Amend Section 136 to provide:

"Every person who wilfully prevents or dissuades, or attempts to prevent or dissuade, any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is guilty of a misdemeanor."

Amend Section 136½ to provide:

"Every person who gives or offers or promises to give to any witness or person about to be called as a witness, any bribe for the purpose of dissuading any person from attending upon any trial, or every person who attempts by means of any offer of a bribe to dissuade any such person from attending upon any trial, is guilty of a felony."

Amend Sections 137 and 138 in the same manner as Section 136½ has been amended, by substituting the words, "for the purpose of dissuading any person from attending upon any trial" in lieu of "upon any understanding or agreement that such person shall not attend upon any trial."

Repeal Section 144 which provides the punishment for the violation of Section 1558 and incorporate the substance thereof in Section 1558.

Repeal Section 145 and add a penalty provision to Section 828 of said code.

Amend Section 146 by striking: "Under the pretense or color of any process or other legal authority," and insert in lieu thereof: "Under the false pretense of legal authority."

Amend Section 146a by striking the word "department" after the word "state", and in lieu thereof inserting a comma and "county or city and county department or department of the United States Government." Also strike from said section the words, "or obtains money, or property, or other thing of value," this being covered by the theft sections.

Repeal Section 150 since Section 839, which has no penalty, is all that is necessary.

Amend Section 154 to read "of a value exceeding $200."

Section 165 should be included in the other sections relating to bribery.

Amend Section 168 to strike the word "information."

Amend Sections 171, 171a and 171b by renumbering the same as 4575, 4576 and 4577, respectively, and by using similar wording to that contained in 4573 in describing the places of detention.

Repeal Section 174 and amend Section 175 to delete reference to Section 174.

Renumber Section 177 to take the number 18.5. This is where the substance of this section logically belongs.

Amend Section 212 to read:

"The fear mentioned in Section 211 of this code may be either: * * *."

Amend Section 214 so that the provisions therein contained shall apply to any other common carrier and private or commercial aircraft.

Amend Section 219.1 to read:

"Every person who, with the intention of wrecking a vehicle, railroad train, car, other common carrier, or aircraft, doing bodily harm to any person, unlawfully throws, hurls, or projects any rock, stone, brick, bottle, piece of wood, or metal, or any other missile of any kind or character, at such vehicle, railroad train, car, other common carrier, or aircraft, while the same is either in motion or stationary, or does any act in furtherance of such intention and thereby wrecks the same or causes bodily harm to any person, is guilty of a felony and punishable in a state prison for not less than one year nor more than 14 years."

The punishment provisions of Section 220 of the Penal Code should be reviewed in the light of the criticism of Judge Charles W. Fricke,[4] who has pointed out that the infamous crime against nature carries a maximum penalty of ten years (Section 286 of the Penal Code) as does grand larceny (Section 489 of the Penal Code) and mayhem a maximum penalty of fourteen years; that these penalties are for the commission of the fully completed and consummated offense but Section 220, which is applicable to cases of assault with intent to commit these crimes, carries a maximum penalty of twenty years even though the intent is not carried out and the crimes are not committed.

Amend Section 240 to read:

"An assault is an unlawful attempt, coupled with a present ability, to commit an injury on the person of another."

Amend Section 245 to read:

"Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means or force * * *"

Amend Section 266 to read:

"Every person who inveigles or entices any female into any house of ill-fame * * *;"

Amend Section 266a to read:

"Every person who takes any female person * * *"

It is the recommendation of the commission that Sections 266h and 266i be added to the Penal Code, defining and punishing the offense of pimping and pandering as now set forth in Acts 1906 and 1907, Deering's California General Laws.

[4] Judge of the Superior Court, Los Angeles County.

Amend Section 269 by adding thereto:

"A recorded certificate of marriage or a certified copy thereof, is prima facie proof of the fact of marriage for the purposes of this section."

Repeal Section 269b, as the substance contained therein would be covered by Sections 269 and 269a.

Redraft Section 270 to provide:

First: That the section be amended so as to make it a public offense for a parent who leaves the State of California and subsequently fails to provide for a minor child.

Second: To provide for an alternative sentence for a violation of said section.

Repeal Section 273b and re-enact the same as number 4002.5 of the Penal Code, and upon the re-enactment of the same provide for a county jail sentence.

Amend Section 311 so that the words "Wilfully and lewdly" apply to subdivisions 1 and 2 thereof, and that the words "Wilfully and knowingly" apply to subdivisions 3, 4, and 5 thereof.

Amend Section 313 to strike out the words: "or, if the examination is delayed or prevented, without awaiting such examination,".

Add Section 330.5 to the Penal Code to prohibit all public gambling and to abate, as a public nuisance, all places where public gambling is conducted.

Amend Section 339 to include auctioneers and to provide that a daily report should be sent to the State Division of Criminal Identification and Investigation by both pawn brokers and auctioneers, containing an accurate description of the property sold or pledged and the name and the address of the seller, purchaser and pledgor.

Repeal Section 367d and amend the Motor Vehicle Code to prohibit operating a vehicle on a nonpublic highway while under the influence of intoxicants.

Amend Section 380 to provide that if serious or permanent injury, or death, ensues as a result of the acts prohibited in said section, that the offense shall be a felony. It is furthermore recommended that the provisions of this section be taken from the Penal Code and re-enacted into the Health and Safety Code.

Repeal Section 381a, as the substance thereof is already covered, or should be covered, by Section 385 of the Agricultural Code.

Repeal Sections 382, 382.5, 382.6, 383, 383a, and 383b of the Penal Code and re-enact same into the Health and Safety Code.

Repeal Section 398 and re-enact as an appropriate section of the Alcoholic Beverage Control Act.

Amend Section 399 to provide:

"If the owner of an animal, knowing that it has dangerous and vicious propensities, * * *"

Amend Section 401 to provide that:

"The punishment for a violation of this section shall be by imprisonment in the state prison for not less than one nor more than seven years."

Repeal Section 402a of the Penal Code and combine the substance thereof with other sections of the Health and Safety Code.

Amend Section 410 to provide that:

"Any peace officer or person having the power of a peace officer, having notice of an unlawful or riotous assembly, * * *"

Reconcile Section 417 of the Penal Code with the provisions of the Deadly Weapons' Control Act.

Amend Section 424 to read:

"Every officer entrusted with moneys and property belonging to any county, city and county, city, district, or political subdivision of this State, who either: * * *"

Amend Section 425 to read:

"Every officer or employee * * *"

Amend Section 428 to read:

"Every person who wilfully obstructs or hinders any public officer from collecting any revenue, tax, or other sums of money for any public purpose in which the people are interested and which such officer is empowered to collect, is guilty of a misdemeanor."

Amend Section 431 to read:

"Every person who uses or gives any receipt, except that prescribed by law, as evidence of the payment of any tax or license of any kind, or who receives payment of such tax or license without delivering the receipt prescribed by law, or who inserts the name of more than one person therein except as authorized by law, is guilty of a misdemeanor."

Amend Section 432 to read:

"Every person who has in his possession, with intent to circulate or sell, any blank license or tax receipts other than those furnished by the controller of state, or county auditor, or other authorized officer, is guilty of a felony."

Repeal Section 436, relating to auctioneers, and re-enact the same in the Business and Professions Code.

Repeal Section 438 of the Penal Code for the reason that Section 3664aa of the Political Code referred to therein, was repealed by the Statutes of 1935.

Amend Section 439 to read:

"Every person who in this State procures, or agrees to procure, any insurance for any person in this State, * * *."

The provisions of this section might well be transferred to an appropriate section of the Insurance Code.

Amend Section 460 to read:

"Every burglary of an inhabited dwelling-house or building committed in the nighttime and every burglary, whether in the daytime or nighttime, committed by a person armed with a dangerous or deadly weapon, or who while in the commission of such burglary assaults any person, is burglary of the first degree. * * *"

This proposal is to make this section consistent with Section 211a, Robbery.

Amend Section 475 so that the section enumerates the same instruments as set forth in Section 470.

Amend Section 484 to include as theft the offense of obtaining money by false promises with fraudulent intent not to perform such promises, as is now contained in subdivision 4 of Section 182 of the Penal Code. Also amend Section 484 to provide that to defraud any person of credit, the cancellation of an indebtedness, or anything of value, shall constitute theft.

Repeal Section 499c, relating to the theft of automobile tires, and Section 500, relating to larceny of goods saved from fire in San Francisco.

Amend Section 501 to include any personal property.

Amend Section 504 by striking the words, "subdivision thereof", and substituting in lieu thereof, "subdivision of this State."

Amend Section 506 to strike out that portion of the section which begins with the words "and any contractor who appropriates money. * * *" This is in line with the case of *People* v. *Holder* (1921), 53 Cal. App. 45 (quoting the 1907 and 1919 amendment to the section on Constitution).

Amend Section 510 to strike the word "executed" and in lieu thereof to insert the word "completed".

The commission recommends that Section 515 be added to the Penal Code which shall provide that the venue for the prosecution of embezzlement shall be either in the county where the property was entrusted, or where the property was converted.

Amend Section 519 to read:

"1. To do an injury to the person or property of the individual threatened or of a third person; or, * * *."

Repeal Section 521. The subject matter is covered by Section 518.

Repeal Section 524, as it is now covered by Section 663 of the Penal Code having to do with "attempts."

Amend Section 526 so as to delete the parentheses around the word "an."

Amend Section 530 to substitute the word "theft" for the word "larceny."

Amend Section 531a to provide that any violation of said section shall be punished in the same manner and to the same extent as for the theft of the property or money described in the instrument.

Amend Section 538b to provide:

"Any person who wilfully with intent to deceive wears the badge * * *."

Combine Section 548 with other sections dealing with arson.

Combine Sections 563b through 563e.

Repeal Sections 566 and 567 and reenact the substance thereof in the Public Utilities Act.

Amend Section 580 to insert after the word "writing" the words "in ink."

Amend Section 587a by striking the word "deemed" before the word "guilty."

Amend Section 594 to provide:

"Every person who maliciously injures or destroys any real or personal property not his own, in cases not otherwise specified in this code, is guilty of a misdemeanor."

In view of the fact that there are two Sections 597a, two Sections 597b, two Sections 597c, and two Sections 597d in the Penal Code, it is the recommendation of the commission that the same be renumbered.

Sections 627 and 627.5 should be in the Fish and Game Code.

Section 642 should be amended to provide that where a public official wilfully and maliciously removes and keeps possession of or appropriates for his own use any property from a dead body, he is guilty of a felony.

The commission recommends that Section 644 be amended to provide that wherever in said section the clause "rape or fornication or sodomy or carnal abuse of a child under the age of twelve years" appears, the clause "the offense defined in Sections 286, 288, or 288a of this code" be substituted.

In view of the recent decision of *Coumas* v. *Superior Court* (1948), 31 Cal. (2d) 682, Sections 656 and 793 should be amended to strike the word "country."

Amend Section 668 so as to apply to Sections 3024 and 3045 in addition to the other sections now enumerated therein.

Amend Section 1203.4 to provide that the public defender may bring a petition to withdraw the plea of guilty or vacate the verdict of conviction of any defendant upon termination of probation regardless of his economic status, in the same manner as Section 4852.08 now provides for the public defender representing a defendant under the procedure for the restoration of rights or application for pardon.

Amend Section 4017 to strike the word "final" before the word "judgment" and amend the second paragraph of said section to read:

"The phrase 'labor on the public works' as used in this section and Section 273h * * *"

A section should be added to the Penal Code to provide that the court may appoint experts in all cases where expert testimony is required under similar conditions as now obtains in insanity cases.

A section should be added to the Penal Code to provide that where two or more defendants are represented by different counsel, that on appeal each counsel should be given a copy of the reporter's transcript.

The commission recommends that a section be added to the Civil Code to provide that where property is stolen and a demand for the return of the same is made upon the person in possession thereof and said demand is not complied with, upon a successful termination of the suit to recover such property said person in possession shall be made to pay all costs, including reasonable attorney's fees which shall be not less than fifty dollars, and exemplary damages in the amount of three times the value of the property.

Section 11700 of the Elections Code now provides that every person is punishable by imprisonment in the state prison for not less than one year nor more than two years who not being entitled to vote at any election fraudulently attempts to vote. Yet Section 5701 of said code provides that every person not entitled to vote who fraudulently votes is guilty of a felony. In other words, the minimum term of imprisonment for the completed offense of voting is not less than six months whereas the minimum term for the offense of attempting to vote is not less than one year. The punishment provisions of these two sections should be reconciled.

Amend Section 11714 of the Health and Safety Code to provide that "every person who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, preparing for sale, peddling or using any narcotic, or who sells, furnishes, gives or offers to sell, furnish or give any narcotic to any minor, is guilty of a felony punishable by imprisonment in the state prison for not less than one year or more than six years, and for each subsequent offense shall be imprisoned in the state prison for not less than six years."

Section 6203 of the Government Code, formerly Section 167 of the Penal Code, should provide for an alternative sentence.

C. MATTERS PROPOSED FOR FURTHER INVESTIGATION AND STUDY

1. Recommendations Concerning Revisions to the Constitution and Statutes Dealing With the Sale and Consumption of Intoxicating Liquors

The executive order of the Governor creating the Commission on Criminal Law and Procedure included in the scope of the inquiry of this commission a study of the laws of this State affecting the maintenance of law and order. No such study would be complete without some reference to Article XX, Section 22 of the California Constitution relating to intoxicating liquors and to the Alcoholic Beverage Control Act (Act 3796, Deering's California General Laws).

A most cursory study of the problems of modern society establishes the fact that the sale and consumption of intoxicating liquor play an important part in the incidence of crime and juvenile delinquency and suggests the necessity for a very thorough investigation of the laws regulating such sale and consumption. It is the opinion of the commission that no hasty recommendations as to changes of the law should be made, for it sincerely believes that a problem which so intimately affects the lives, health and welfare of such a large number of the citizens of the State as well as its revenue, is worthy of most careful study. This commission was not able to devote sufficient time to such study in order to be able to make specific recommendations concerning changes in the law or its administration. However, certain questions concerning this problem have been presented and the commission here lists some of the more important, which it respectfully urges should be given the thoughtful consideration of a commission established to continue the study of criminal law and procedure as heretofore proposed or of a committee of the Legislature charged with a similar responsibility.

First: Should not that portion of Article XX, Section 22 of the Constitution which provides that "The State Board of Equalization shall have the exclusive power to license the manufacture, importation and sale of intoxicating liquor in this State, and to collect license fees or occupation taxes on account thereof and shall have the power, in its discretion, to deny or revoke any specific liquor license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals" be repealed?

Article XIII, Section 9 of the State Constitution provides that the State Board of Equalization shall consist of one member of each congressional district in this State, as the same existed in 1879, who shall be elected by the qualified electors of their respective districts and whose term of office shall be for four years; that the duty of such member shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. Other constitutional provisions and statutes of this State have from time to time imposed various other duties relating to the assessment and collection of taxes on the State Board of Equalization.

Since the licensing of persons to deal in intoxicating liquor, the supervision of such licensees and of the premises used for such purposes and the enforcement of liquor laws is a governmental function separate and distinct from that of assessment and collection of taxes, could not the former function be carried on more effectively by a continuing enforcement agency consisting of five or more members, appointed by the Governor for staggered terms, which agency would be charged with the exclusive responsibility of enforcing the laws pertaining to the sale and consumption of intoxicating liquor?

Second: Should Article XX, Section 22 of the California Constitution and Section 18 of the Alcoholic Beverage Control Act be amended to give recognition to the fact that intoxicating liquor is now sold in public bars and bar rooms and that the constitutional requirement that such liquor may be bought, sold, served and consumed only in bona fide hotels, restaurants, cafes, cafeterias, railroad dining rooms, passenger ships and club cars or other public eating places or bona fide clubs has only resulted in an unrealistic administration of the law? Moreover, has not the constitutional provision actually permitted minors to frequent places where such liquor is sold and consumed?

Third: Should the Alcoholic Beverage Control Act be amended to prohibit the transfer of on-sale or off-sale liquor licenses? Since a license to sell liquor is a privilege granted by the State of California based on the personal qualifications of the licensee and is issued upon the payment of a very nominal fee to the State, should not the license revert to the State when the licensee determines for any reason that he does not wish to continue to exercise such privilege? In other words, should not the transfer of a license with or without consideration be forbidden by law, just as the transfer of any other business or professional license is prohibited?

Fourth: Should not Section 56 of the Alcoholic Beverage Control Act be amended to provide for more stringent prohibitions concerning the employment of minors in or about the premises where intoxicating liquor is sold and consumed and should not a wilful violation of this prohibition result in revocation of an on-sale license?

Fifth: Should not Section 61 of the Alcoholic Beverage Control Act, relating to sales to minors, be amended to provide for automatic revocation of license where the violation is shown to be wilful, deliberate or the result of gross negligence?

Sixth: Should not the law set up the qualifications of those who may be employed in on-sale liquor establishments and off-sale liquor establishments which deal exclusively in alcoholic beverages?

2. Arson

At the present time there are six [1] different sections of the Penal Code which define or provide the punishment for the offenses of setting or attempting to set fire to various types of property. The extent of the punishment under the various provisions is not always commensurate with the seriousness of the offenses denounced, nor is there any uniformity of punishment under the various sections.

Modern psychiatry has advanced the theory that the impulse to set fire to things, or *pyromania,* is a manifestation of a serious mental disorder regardless of the type of property sought to be destroyed. It is the consensus of the commission that the subject of arson is worthy of a thorough study to reconcile the various sections which now define the offense and the different punishments provided therein. Statutes should be enacted which will differentiate between offenses prompted by different

[1] Sections 184, 447a, 448a, 449a, 450a, 451a.

motivation with the thought in mind of protecting society from those suffering from a mental disorder which manifests itself in an impulse to destroy life and property.

To assure this protection it is recommended that the penalty provisions be revised to provide for imprisonment in the state prison for not less than one year in order that the Adult Authority may segregate such offenders for life if the safety of society so dictates.

3. Statutory Instruction on Corroboration of Accomplices

In view of the recent decisions of our appellate courts [2] involving the question of the sufficiency of corroborating evidence required by Section 1111 of the Penal Code which have led to uncertainty concerning the law on this subject, it is the recommendation of the commission that a statutory instruction defining corroboration of an accomplice be enacted; that such statute set forth a definition of corroboration in the same manner that Section 1096 of the Penal Code now defines reasonable doubt.

4. Review of Penalties Provided For in the Penal Code

A study of the penalty provisions of the various sections of the Penal Code clearly indicates that the same should be the subject of a comprehensive and planned revision with the end in view of making said penalty provisions more compatible with the gravity of the offense charged and with the penalties provided for other offenses of like seriousness.

5. Bribery

The commission recommends that those sections contained in Title 5 and Title 7 of Part 1 of the Penal Code, having to do with bribery, be further studied and revised, having in mind the possibility of:

(1) Extending the provisions of Section 67 to add, "county, city, city and county, and other political subdivision."

(2) Combining Sections 67 and 67½ of said code and the sections contained in Chapter 1, Title 7.

(3) Clarifying the meaning of the phrase "agreement or understanding" wherever it appears in said sections.

(4) Reviewing the punishment provisions of Sections 69, 70, 73, 95 and 96.

(5) Amending Section 72 to read as follows:

"Every person who, with intent to defraud, presents for allowance or for payment to any state, county, city and county, city, or other political subdivision board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony."

(6) Amending Section 93 to read:

"Every person authorized by law or by virtue of any private agreement * * *."

(7) Considering whether Section 94 should be amended to divide the section into three parts, each defining a separate offense and providing that every judicial officer who asks or receives the whole or any part of the fees allowed by law to any stenographer or reporter appointed by him shall be guilty of a felony instead of a misdemeanor.

(8) Amending Section 95 to read:

"Every person who corruptly influences or attempts to influence * * *."

[2] *e.g. People* v. *Reingold* (1948) 87 A. C. A. 464, and cases there cited.

6. Theft

All sections of the Penal Code relating to the thefts of various kinds of property should be reconsidered with the thought of combining many of them under a general section.

7. Auctions

At the present time auctions and auctioneers are not regulated by statute. It has come to the attention of the commission that there are many abuses existing and that legislation should be enacted to protect the general public.

8. Sections 700 and 702, Welfare and Institutions Code

The commission recommends that the offense of contributing to the delinquency of a minor as presently defined in and punished by the Welfare and Institutions Code, should be studied with the end in view of providing for an alternative sentence.

9. Specific Penal Code Sections

Section 6

If, upon further research, it is found that Section 6 of the Penal Code dealing with the effect of said code on past offenses is no longer necessary, said section should be repealed.

Section 23

Study should be made of the provisions of Section 23 of the Penal Code which enumerates certain statutes specified as continuing in force, to determine which of the subdivisions may be deleted.

Section 26

Section 26 of the Penal Code which sets forth classes of persons incapable of committing crimes should be given further consideration to determine whether the statute as presently constituted presents a proper classification.

Section 31

Section 31 of the Penal Code which defines who are principals should be examined to determine the adequacy of the definition contained therein, since it is now possible that a person might aid or abet or advise or encourage another to commit a crime when such other person might not be legally responsible for the commission of the crime.

Section 185

Section 185 of the Penal Code relating to wearing of masks for unlawful purposes should be studied to determine whether the substance thereof is not now covered by Act 4707 of the General Laws, pertaining to the same subject.

Section 264

The commission recommends that further study be given to Section 264 of the Penal Code which provides the punishment for rape to determine:

First: If the punishment for statutory rape should be determined by the jury or by the court; and

Second: If the present provision for the jury's assessing the punishment is retained, should provision be made for probation in such cases.

Sections 266 et seq.

The history of Sections 266 through 266g of the Penal Code defining various crimes against morals should be studied to determine whether said sections, or any of them, could be combined in one or more sections, and whether Section 266c might be repealed.

Sections 273e et seq.

After reviewing Sections 273e, 273f, and 273g of the Penal Code having to do with certain offenses against children, it is the opinion of the commission that any violation of the above sections would constitute contributing to the delinquency of a minor, and in view of the fact that greater control and punishment could be achieved by prosecuting under Section 702 of the Welfare and Institutions Code it is recommended that these sections be further studied for the purpose of determining whether the same should be repealed.

Section 384a

Section 384a of the Penal Code relating to the destruction of trees and shrubs should be studied and rewritten to eliminate duplication.

Sections 405a and 405b

The commission is doubtful whether the term "lynching" which is defined and punished by Sections 405a and 405b of the Penal Code, respectively, correctly describes the offense denounced therein and recommends this matter for further investigation.

Section 415

Section 415 of the Penal Code, disturbing the peace, should be reviewed to the end that same may be more simply stated.

Section 416

The commission recommends that Section 416 of the Penal Code, refusing to disperse upon lawful command, be further studied and compared with Sections 406 and 407, having to do with rout and unlawful assembly, for the purpose of determining whether said sections are consistent with each other.

Section 441

Section 441 of the Penal Code should be further studied to determine to which public officers it applies, and whether the subject is not covered by other sections.

Section 470

The commission recommends that Section 470 of the Penal Code dealing with forgery, be studied to the end that it may be amended so as to follow the rule of the minority of jurisdictions which now provides that it is forgery to sign one's own name to a document the substance of which is false or fictitious.

Section 503

Section 503 of the Penal Code, defining embezzlement, should be examined to the end that the definition be made sufficiently comprehensive to include the specific offenses set forth in other provisions of Chapter 6 of Title 13 immediately following and to provide:

(1) For fraudulent appropriation;
(2) For use for an unlawful purpose;
(3) For secretion of property or appropriation or use of property for a purpose not in the due and lawful execution of a trust.

It is suggested that then perhaps many other special sections dealing with embezzlement may be repealed.

Section 518

The commission recommends that Section 518 of the Penal Code which defines extortion be given further consideration and compared with Article 740-66 of the Louisiana statute which substitutes words of broader meaning for the word "property" as used in said section and reads in part as follows:

"Extortion is the communication of threats to another with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity of any description. The following kind of threats shall be sufficient to constitute extortion:

1. A threat to do any unlawful injury to the person or property of the individual threatened or of any member of his family or of any other person held dear to him.
2. A threat to accuse the individual threatened or any member of his family or any other person held dear to him of any crime.
3. A threat to expose or impute any deformity or disgrace to the individual threatened or to any member of his family or to any other person held dear to him.
4. A threat to expose any secret affecting the individual threatened or any member of his family or any other person held dear to him.
5. A threat to do any other harm * * *."

Sections 532 and 532a

Sections 532 and 532a of the Penal Code relating to obtaining money by false pretenses and the making of false financial statements should be compared with Section 484, dealing with theft and said sections should be considered in the light of *People* v. *Breyer* (1934) 139 Cal. App. 547, 554.

Sections 535 et seq.

It is recommended that a study be made of Sections 535, 536, and 536a of the Penal Code dealing with specific means of obtaining money and property by false pretenses, to determine if the subject matter thereof

is covered by other sections. If Sections 536 and 536a are not repealed, the punishment provisions should be amended to provide an alternative punishment.

Part 1, Title 14

The commission recommends that Sections 594 through 625a which constitute Title 14 of Part 1 of the Penal Code, Malicious Mischief, should be studied with a view toward modernization and consolidation, where possible.

Section 599b

The commission recommends that Section 599b of the Penal Code defining certain words be studied and revised, having in mind the definitions contained in Section 7 of said code.

Sections 600 and 600.5

Sections 600 and 600.5 of the Penal Code, relating to burning of bridges, buildings and standing grain, should be studied and considered with the general subject of arson.

Section 607

Section 607 of the Penal Code, having to do with the destruction of miscellaneous property should be given further consideration to determine whether any of the offenses enumerated therein should be punished as felonies.

Section 617

The commission recommends that Section 617 of the Penal Code, concerning the destruction of written instruments, be clarified and possibly combined with Section 470 of said code defining forgery.

Section 647

Section 647 of the Penal Code, defining who is a vagrant, has been interpreted by numerous decisions of this State. In view of these decisions the commission recommends that the section be given further study to determine whether the present enumeration of certain persons therein is complete or whether certain classes should be eliminated.

It is further suggested that some thought be given to whether the section should apply only to the status as provided in *People* v. *Craig* [1] (1907), 152 Cal. 42.

Section 650

The commission recommends that further study and consideration should be given to Section 650 of the Penal Code pertaining to sending threatening letters to expose another. Should said section be combined with the section dealing with extortion, and should an alternative punishment be provided?

Section 1191

The 1947 Session of the Legislature made two amendments to Section 1191 of the Penal Code, each incorporated in a separate bill. Chapter 1178, Paragraph 1, of the Statutes of 1947 and Chapter 1177, Paragraph 1, of the Statutes of 1947, each amend this section. A study should be made of these two chapters of the statutes to determine if the substance of each should be retained and if so, that appearing in Chapter 1177 should be reenacted into an appropriate number of the Penal Code.

[1] See also, *Notes*, 23 CALIF. L. REV. 506 and 616.

This report would not be complete without an expression by the members of the personal satisfaction that each has derived from the work undertaken and the associations made.

With humility, with some sense of inadequacy for the task, but also with some little pride, the Special Crime Study Commission on Criminal Law and Procedure submits its Final Report.

ISAAC PACHT, Chairman
ELLERY E. CUFF
C. B. HORRALL
CECIL MOSBACHER
MAXWELL M. WILLENS

Matters Concerning Which the Commission Members Have Filed Majority and Minority Reports

Matters Concerning Which the Commission Members Have Filed Majority and Minority Reports

The commission members have not been unanimous in their recommendations concerning the subjects set forth in the following sections of this report. Majority and minority reports are, accordingly, filed herewith.

Judge Isaac Pacht, Ellery E. Cuff and Maxwell M. Willens have concurred in the views expressed in the majority report. The minority report expresses the point of view of Cecil Mosbacher and C. B. Horrall.

It is the desire and hope of all the members of the commission that the varying viewpoints here presented may be helpful in future analysis of the matters discussed.

I. USE OF REPORTS SHOWING PRIOR ARRESTS IN MISDEMEANOR CASES

A. Majority Report

It has come to the attention of the commission that in certain instances judges of the inferior courts in this State refer to an informal sheet containing information concerning the prior arrests or convictions of a misdemeanor defendant prior to adjudication of his guilt.

It is the opinion of the majority members of the commission that any practice which tends to bring to the attention of the court any information concerning the criminal record of a defendant before the adjudication of his guilt or innocence of the offense with which he has been charged is highly prejudicial and contrary to the elementary principles of criminal justice.

The majority therefore recommends that legislation be enacted:

(1) Requiring that no report or information sheet regarding previous arrests or convictions of a defendant be used by any court for any purpose before such defendant has been tried for the offense charged or before he has entered a guilty plea.

(2) Such legislation should further provide that the court inform the defendant concerning the substance of such report prior to the time of pronouncement of judgment, and that if the defendant denies the truth thereof he shall be entitled, upon demand, to a reasonable continuance for the purpose of presenting evidence to rebut the accusations therein contained.

B. Minority Report

The minority of the commission has seen no indication of any need of further legislation restricting the use of prior arrest reports in misdemeanor cases. Present-day identification facilities, particularly fingerprinting which is now universally used in all of the larger cities of the State, eliminate any problem of mistaken identity. The volume of misdemeanor cases coming before the police courts in metropolitan areas is such as to make practically impossible the discussion with each defendant

of his prior record of arrests. This is particularly true in cases of minor misdemeanors such as drunkenness where the defendant has often been arrested twenty or more times. Under the existing law the defendant may question the truth of the facts contained in the report should he believe that the sentence is unduly severe. It is the opinion of the minority of the commission that the sound discretion and integrity of the judge is a sufficient safeguard against an unfair or inequitable disposition of the defendant's case.

II. DUAL TRIAL UPON PLEAS OF NOT GUILTY AND NOT GUILTY BY REASON OF INSANITY—PENAL CODE SECTION 1026

A. Majority Report

The majority members of the commission recommend that Section 1026 of the Penal Code be amended to retain the provision requiring the specific plea of not guilty by reason of insanity but to provide that, when such plea and the plea of not guilty are both entered, the issues raised by the two pleas be tried simultaneously.

By the provision of Section 1026 of the Penal Code as now constituted, where the pleas of not guilty, and not guilty by reason of insanity, are entered, trial is had in two sections. The defendant must be tried first on the not guilty plea. In the trial of that issue he is conclusively presumed to be sane. If he is found guilty the second section of the trial is then proceeded with either before the same or a different jury on the issues raised by the plea of not guilty by reason of insanity.

The decisions of our Supreme Court have laid down the general rule that evidence of the mental condition of the defendant is immaterial and inadmissible in the trial of the not guilty issue, either for the purpose of fixing the degree or determining the punishment. It would seem unnecessary to present argument that the mental condition and capacity of the defendant at the time of the commission of the offense is often an indispensable factor to be considered by the jury if they are to return a just verdict. Yet by the section as it now exists the foregoing element is excluded from the jury's consideration. This is a cogent reason for the suggested amendment.

For instance, a defendant accused of the crime of murder may enter the two pleas. This crime may involve the element of intent, wilfulness and premeditation. If these elements are present it is murder of the first degree, carrying the penalty of life imprisonment or death at the discretion of the jury (or trier of the fact). The defendant must first be tried that issue is concerned, although the very essence of first degree murder on the not guilty plea and is conclusively presumed to be sane as far as involves a mental function. He may be a very mentally ill person, without the capacity to premeditate or form any definite intent. If so, his crime may be murder of the second degree, but evidence of that fact must be withheld from the jury until it has first returned its verdict and recommendation. Upon these half facts the jury may find him guilty of murder of the first degree and assess the penalty at death. Such a procedure is most unsound for it seems elementary that the mental condition of the accused is the very factor that should determine the degree as well as the punishment. Then, either the same jury or a different one, after its hands are tied, proceeds to the trial on the not guilty by reason of insanity plea, and, at this point, for the first time hears evidence pertaining to the defendant's mental condition. If such evidence shows beyond question that he was legally insane, a verdict of not guilty by reason of insanity is returned. Such a verdict nullifies the first verdict and the problem is solved.

On the other hand, the evidence produced at this trial may show the defendant to have been in a state of mental disturbance and confusion, and insane in a medical sense, yet not so insane as to come properly and fully within the definition of "legal insanity." Sometimes when this occurs a jury returns a verdict finding such a defendant insane, not because they were satisfied that he did not know right from wrong but because they were unwilling to permit their former verdict to stand.

It has come to the attention of the commission that some trial judges in murder cases refuse to follow the rule excluding evidence of insanity on a trial of a not guilty plea. They permit such evidence on the first trial so that the jury can intelligently exercise its discretionary power in imposing punishment. Since such rulings are against the people, and since the people cannot appeal, the propriety thereof cannot be reviewed.

Undoubtedly this problem has been of concern to the Supreme Court. In the recent case of *People* v. *Wells*, (1948) 33 A. C. 304, a more liberalized approach was made toward meeting the problem. There it was held in effect that evidence competent in character which tends to show that a defendant, at the time he committed the crime, either possessed or did not possess the specific essential mental state (e. g., malice aforethought, deliberation, or intent) is admissible.

If by authority of that case evidence of the mental status or insanity of a defendant is admissible on a not guilty plea, it is only a duplication of time and effort to produce the same evidence on a second trial. At least the original purpose of the statute, whether just or unjust, is defeated.

In the recent case of *People* v. *Williams*, (1948) 32 Cal. (2d) 78, our Supreme Court has held that the punishment for murder in the first degree is death, unless the jury from evidence in mitigation recommend a punishment of life imprisonment. This decision also immediately raises the question as to whether or not, if mitigation must be required in order to permit the jury to exercise the discretion of recommending life imprisonment, evidence of mental illness should be admissible in the trial of the not guilty plea for consideration as to the question of penalty.

The majority members of the commission are of the opinion that when a defense of insanity is to be interposed a plea of not guilty by reason of insanity should be entered and if a plea of not guilty is entered also, the two issues should be tried simultaneously—with separate verdicts required. They are of the opinion that such a procedure would bring about speedier trials and more just verdicts.

B. Minority Report

The minority members of the commission differ from the majority members in regard to the latter's proposed amendment to Section 1026 of the Penal Code. The minority is cognizant of the uncertainty of the law created by the recent decision of *People* v. *Wells* ((1948) 33 A.C. 304), but does not believe that the abolition of the separate trial of the issue of not guilty and not guilty by reason of insanity is the answer.

The present provisions of Section 1026 grew out of the recommendations of the 1925 Crime Commission, which recommendation was prompted by the chaotic condition created by the law as it existed when both of said issues were tried simultaneously. The minority members of the commission are of the opinion that the whole subject of the trial of the issue of not guilty by reason of insanity is worthy of most serious study. This subject is very closely connected with that of homicide—particularly the degrees of and punishment for such offense.

It appears that these subjects are too complex and technical for any lay jury to understand sufficiently well to do justice to either the defendant or society and that such issues should be determined by the court after the jury has passed on the single issue of whether the defendant killed the decedent. This would mean that the facts concerning the mental condition of the defendant and all other circumstances which would affect his culpability should be weighed by the court alone in determining the degree of the offense and the punishment therefor.

In order that no person who is incapable of forming a criminal intent should be put to trial, perhaps the issue of insanity should be determined by the court prior to the submission to the jury of the single issue, whether the defendant killed the victim. In those cases where the death penalty is sought by the people, it is suggested that the issue of punishment be submitted to a court of three judges. The minority of the commission believe that such a system would eliminate many of the frivolous pleas which are now interposed and would lead to a more absolute protection of the defendant and of society.

III. STATUTORY RESTRICTIONS UPON THE POWER OF THE COURT TO GRANT PROBATION—PENAL CODE SECTION 1203

A. Majority Report

Probation in California, as elsewhere, has emerged from the experimental stage, and is now recognized both by criminologists and intelligent laymen as a reasonably adequate and frequently successful means of rehabilitating those who have violated criminal statutes.

This represents a distinct advance in socio-legal concepts. Early prejudices against probation as a method of dealing with antisocial individuals, which were founded on the erroneous assumption that ambulatory punishment (a judicial definition of probation) simply means the coddling of criminals and a concomitant increase of hazards to law-abiding communities, are rapidly disappearing. Most, if not all, the states in the union have probation laws embodying the concept that imprisonment of youthful offenders, and even those of mature years who show ability to respond to supervision, is no longer necessary for reformation of the individual, or the protection of society.

There is a growing realization among students of the subject that the individual rather than the offense should be the focus of attention. The American Law Institute, whose purpose is "to clarify and simplify the law, to better adapt it to social needs, to secure the better administration of justice, and to encourage scholarly and scientific work," gives momentum to this principal of individualized treatment for the offender.

California's probation law, because of its restrictions, is a half-way measure. It impliedly ignores the individual and emphasizes the offense.

The power of the trial court to grant probation is now restricted by statutory enactments contained in Section 1203 of the Penal Code, Sections 11715.6 and 11722 of the Health and Safety Code, and Paragraph 4 of the Dangerous Weapons' Control Law of 1923, as amended.

After a careful study of probation and its objectives, it is the recommendation of a majority of the commission that all existing restrictions upon the power of the court to grant probation be repealed.

This course, we believe, would be in line with the findings of modern penologists and psychologists, who clearly recognize the necessity for certain flexibility in penal statutes applicable to probation. Limiting the power of a judge to those cases which fall within a predetermined category and excluding all others, regardless of the human equation, is a legal anomaly. It presupposes that either the ineligible offender is incapable of reformation, or that he must be incarcerated as a warning to others. The first assumption is obviously false, the other questionable. There are undoubtedly many situations in which the protection of society requires the imprisonment, and perhaps even the death, of the offender; but the fact remains that rehabilitation does not necessarily depend upon the nature of the crime. Insofar as severity of punishment as a deterrent to others is concerned, probation can be made equally as effective. Probation implies neither sentiment nor leniency. It is simply an effort to rehabilitate an offender outside prison walls. It has been referred to as a trial period, during which the convicted offender, if he meets certain basic requirements, is afforded an opportunity, under the careful guidance of a probation officer, to conduct himself in such a way as to become acceptable to the community. If he fails to take advantage of the opportunity, he can be, and often is, returned to court and a judgment of imprisonment pronounced. A brief interview with any experienced judge or probation officer in California will reveal that probation is a successful instrumentality for the treatment of offenders. If the restrictions are not removed, there are thousands of offenders today who could, if given an opportunity, with proper supervision, become useful members of society, but who nevertheless are doomed to spend many years behind prison bars.

As stated in the Survey of Releases and Procedures made by the Attorney General of the United States (Vol. 2, page 471, published in 1939):

> "Although this Survey sets forth many of the shortcomings of American probation laws and administrative practices, there is one conclusion which overshadows all the rest; namely, that the advantages of probation as an aid in crime prevention, and to the rehabilitation of offenders far exceed in importance its weakness and defects. Prisons today are a success as custodial institutions for dangerous criminals, but as forces for rehabilitating offenders, they stand as sordid reminders of failure. Many men are being sent to prison only to come out worse social misfits than when they entered. Now that these facts are recognized, it becomes increasingly apparent that the basic principles of probation are sound, and that its use should be widely extended rather than curtailed. Probation must play a large part in any program which aims at the ultimate control of crime."

Section 11715.6 of the Health and Safety Code provides that probation cannot be granted to users of narcotics, sometimes referred to as drug addicts. Such offenders are frequently recognized by medical science as being the victims of a disease, but under the law the court must sentence them to jail for at least ninety days. This certainly is a medieval concept of justice, but the judges are helpless. In some instances judges and prosecutors collaborate in an effort to circumvent this austerity of the law. Often the judge informs the sick man that if he will cooperate, the probation officer will take necessary steps to have him committed to a state hospital for treatment, and upon such commitment, the prosecutor dismisses the case.

If all restrictions against probation were removed, the trial judge could consider each case upon its merits. Most of our judges are experienced and conscientious jurists who can be depended upon to use sound discretion. Armed with exhaustive reports furnished by alert probation officers, psychiatrists, defendant's counsel and prosecutors, the judges are not likely to be deceived by recidivists and others who have forfeited all right to probation, and must be segregated for the welfare of society.

The majority of the commission are not alone in their views regarding this most important subject matter. During the hearings held by the commission in various parts of the State, numerous district and assistant district attorneys, supreme, appellate and superior court judges, and probation officers, appeared and unequivocally stated that they favored repeal of all restrictions against the granting of probation. It is likewise significant to direct attention to the fact that the California Probation and Parole Association is presently sponsoring a bill before the California Legislature, which is in full accord with the conclusions reached by the majority of the commission.

B. Minority Report

The minority members of the commission are not in agreement with the majority report insofar as said report recommends the amendment of Section 1203 of the Penal Code and the repeal of Sections 11715.6 and 11722 of the Health and Safety Code and Section 4 of the Deadly Weapons' Control Law so as to eliminate all restrictions on the discretion of the court in granting probation. The Peace Officers', District Attorneys' and Sheriffs' Associations of the State of California have gone on record as definitely disapproving the repeal of all restrictions on probation.

It is the opinion of the minority members that probation is considered by the defendant and by the public at large as a matter of leniency, granted by law where the facts of the offense are not such as to indicate an indifference on the part of the defendant to the lives and safety of others.

The fact that a defendant knows that he will be sent to a state prison if he commits one of the more serious crimes and is personally armed with a deadly weapon at the time, or if he uses or attempts to use such weapon upon any human being in connection with the perpetration of a crime, or if in the commission of a crime he wilfully inflicts great bodily injury or torture, has a deterrant effect on those who deliberately plan and commit the more serious felonies and who are armed and would not hesitate to use a weapon should the occasion demand. The same reasoning

applies to a defendant who has a prior record of conviction and contemplates the commission of another serious offense.

The minority members are of the opinion that certain restrictions on probation are of assistance to the court in pronouncing sentence and lead to a more equitable administration of criminal law in that punishment for like offenses is more uniform for all defendants throughout the State regardless of the opinion of individual judges or of the social and economic position of the defendant.

A further reason why the minority recommendation against removal of all restrictions on probation at the present time is that we do not have sufficient statistical data to determine if and to what extent probation has been successful, nor are our probation facilities adequate to assure proper supervision of any great number of additional offenders. Any appreciable increase in the number of persons placed on probation should be undertaken gradually and only so fast as supervisorial facilities will assure protection to society.

The minority members are of the opinion that Section 1203 of the Penal Code should be amended to meet specific objections and to read as follows:

> "After the conviction by plea or verdict of guilty of a public offense not amounting to a felony in cases where discretion is conferred on the court or any board or commission or other authority as to the extent of the punishment the court, upon application of the defendant or of the people or upon its own motion, may summarily deny probation, or at a time fixed may hear and determine in the presence of the defendant the matter of probation of the defendant and the conditions of such probation, if granted; if probation is not denied, and in every felony case in which the defendant is eligible to probation before any judgment is pronounced and whether or not an application for probation has been made, the court must immediately refer the matter to the probation officer to investigate and to report to the court at a specified time, upon the circumstances surrounding the crime and concerning the defendant and his prior record, which may be taken into consideration either in aggravation or mitigation of punishment in those cases in which the defendant is not eligible for probation, the judge may in his discretion refer the matter to the probation officer for an investigation of the facts relevant to sentence; the probation officer must thereupon make an investigation of circumstances surrounding the crime and the prior record and history of the defendant and make a written report to the court of the facts found upon such investigation and must accompany said report with his written recommendations as to the granting or withholding of probation to the defendant and as to the conditions of probation if it shall be granted and the report and recommendations must be filed with the clerk of the court as a record in the case. At such time or times fixed by the court, the court must hear and determine such application and in connection therewith must consider any report of the probation officer, and must make a statement that it has considered such report which must be filed with the clerk of the court as a record in the case. ~~And if it~~ *If the court*

shall determine that there are circumstances in mitigation of punishment prescribed by law, or that the ends of justice would be subserved by granting probation to the defendant, the court shall have power in its discretion to place the defendant on probation as hereinafter provided; if probation is denied, the clerk of the court must forthwith send a copy of the report and recommendations to the Department of Corrections at the prison or other institution to which the defendant is delivered; further provided, however, that probation shall not be granted to any defendant who shall have been convicted of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, attempt to commit murder, train wrecking, ~~felonious assault with a deadly weapon,~~ kidnapping, ~~mayhem,~~ escape from a state prison, conspiracy to commit any one or more of the aforementioned felonies, and who at the time of the perpetration of said crime or any of them or at the time of his arrest was *himself* armed with a deadly weapon (unless at the time had a lawful right to carry the same), nor to a defendant who used or attempted to use a deadly weapon *upon a human being* in connection with the perpetration of the crime of which he was convicted, nor to one who in the perpetration of the crime of which he was convicted *wilfully* inflicted great bodily injury or torture, nor to any defendant unless the court shall be satisfied that he has ~~never~~ *not* been *twice* previously convicted of ~~a~~ felony in this State nor *twice previously* convicted in any other place *or places* of ~~a~~ public ~~offense~~ *offenses* which would have been ~~a felony~~ *felonies* if committed in this State ~~,~~ *; nor to any defendant convicted of the crime of robbery, burglary of the first degree, burglary with explosives, rape with force or violence, arson, murder, attempt to commit murder, assault with intent to commit murder, train wrecking, extortion, kidnapping, escape from a state prison, violation of Sections 286, 288 or 288a of this code, or conspiracy to commit any one or more of the aforesaid felonies, unless the court shall be satisfied that he has never been previously convicted of a felony in this State nor previously convicted in any other place of a public offense which would have been a felony if convicted in this State; nor to any defendant unless the court shall be satisfied that he has never been previously convicted of a felony in this State nor convicted in any other place of a public offense which would have been a felony if committed in this State and at the time of the perpetration of said previous offense or at the time of his arrest for said previous offense he was himself armed with a deadly weapon (unless at the time he had a lawful right to carry the same) or he personally used or attempted to use a deadly weapon upon a human being in connection with the perpetration of said previous offense or in the perpertation of said previous offense he wilfully inflicted great bodily injury or torture;* nor to any public official or peace officer of the State, county, city, city and county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe or embezzled public money or was guilty of extortion. No probationer shall be released to enter another state of the United States, unless and until his case has been referred to the California Administrator, Interstate Parole Compacts, pursuant to the Uniform Act for Out-of-State Parolee Supervision.''

The minority of the commission likewise recommend that Section 4 of the Deadly Weapons' Control Law be amended to agree with the hereinabove proposed amendments to Section 1203 of the Penal Code.

The minority members of the commission oppose the repeal of Sections 11715.6 and 11722 of the Health and Safety Code which would remove all restrictions on probation for those convicted of violations of the Narcotic Act. The traffic in narcotics is so closely related to the commission of other serious offenses and is such an integral part of commercialized crime, that there appears to be no justifiable reason for lessening the penalty for those convicted of selling, transporting, furnishing or giving away narcotics. The minority members of the commission make no serious objection, however, to amending Section 11715.6 of said code by striking therefrom ''Section 11712'' so that the prohibition against granting probation to a defendant who is convicted merely of possession of narcotics would be removed.

IV. STATUTORY REQUIREMENTS REGARDING REVOCATION OF DRIVERS' LICENSES—VEHICLE CODE SECTION 304

A. Majority Report

Section 304 of the California Vehicle Code now provides that the Department of Motor Vehicles shall immediately revoke the privilege (driver's license) of any person to operate a motor vehicle upon a highway upon showing that such person has been convicted of certain crimes among which are: ''(1) Manslaughter resulting from the operation of a motor vehicle * * * (4) Theft or unlawful taking of a vehicle in violation of Section 503 of [the Vehicle Code], or grand theft of a motor vehicle * * * [and] (6) Any felony in the commission of which a motor vehicle is used.''

The majority members of the commission recommend that this section be amended by deleting those portions referred to, and by leaving the question of revocation of drivers' licenses in such cases to sound judicial discretion.

These mandatory provisions are not founded upon sound reason and inflict great hardship in many cases. Consider the first one noted, manslaughter resulting from the operation of a motor vehicle. This offense more frequently than otherwise partakes of the nature of an isolated accident and may have nothing to do with the person's ability to operate a car safely on the highway. Often the negligence of the victim is a substantial contributing factor. The defendant may have had years of experience in the operation of a car without a single citation for a traffic violation. He may be a man of sterling character and a substantial citizen in the community. The conviction of manslaughter is no criterion, in and of itself, that he is any different from other good and safe drivers.

The other two classifications mentioned have no connection whatever with the defendant's ability to operate a car safely. True, it is wrong to steal a car or to commit any felony with or without a car and for the crime the violator should answer. But the punishment should be founded upon

a reasonable basis. If revoking his driver's license is designed to prevent him from again engaging in crime it fails in its purpose. We know of no case where a wilful law violator has been concerned with procuring a license first, nor of a convicted defendant who has abstained from illegal acts for the want of a license.

Our economy of life has developed and changed to the point wherein the use of an automobile is essential to the individual in providing a living for himself and family. Not only is it necessary to provide transportation to and from home to the place of employment, but many industries require some use of a car by their employees. The present harsh application of Section 304 closes avenues to the obtaining of legitimate employment by many who are in need of it more than anyone else. Being deprived of a driver's license works the greatest hardship upon the defendant who is conscientious in trying to fulfill his obligations as a member of society.

The majority members of the commission are of the opinion that the revocation of licenses in the situations discussed is not a proper matter for arbitrary action but should be left to the sound discretion of the judge trying the case.

B. Minority Report

For reasons similar to those which the minority members stated in opposition to the removal of all restrictions on the granting of probation now set forth in Section 1203 of the Penal Code, such members would oppose the repeal of Section 304 of the Vehicle Code. Permission to drive an automobile on the public streets is a privilege which should only be granted to those who are mindful of the safety of others. Those defendants enumerated in Section 304 of the Vehicle Code whose license to drive is now automatically revoked have demonstrated a lack of such regard for the rights of others.

In answer to the argument that defendant's family may suffer if his privilege to drive is revoked, it is suggested, first, that Section 304 of the Vehicle Code only provides for revocation where the offense is serious or where there have been repeated convictions of a less serious offense; second, that there are no facts or figures to demonstrate the frequency of situations where such revocation caused unusual hardship; third, that the revocation of license would only affect the defendant who was granted probation, by which disposition of his case he has already been given consideration by the court and who, by the deprivation of some privilege, should be made to realize the seriousness of the offense of which he was convicted; and fourth, that as between the safety and welfare of society and that of the individual, there can be no choice.

APPENDIX

EXECUTIVE ORDER OF THE GOVERNOR

(Pursuant to Chapter 1181, Section 6028, Statute Laws of 1947)

November 1, 1947

By virture of the authority vested in me by Chapter 1181 of the Statute Laws of 1947, I hereby create a special commission of five members, to be known as "The Special Crime Study Commission on Criminal Law and Procedure," to assist the Board of Corrections in the study of crime pursuant to Section 6027 of the Penal Code.

Said commission is authorized and instructed to examine, evaluate, and make recommendations respecting the effectiveness of all criminal laws and procedures now in force in California for the purpose of administering criminal justice and maintaining law and order.

The commission is further authorized to study and make recommendations concerning any law or laws, constitutional or statutory, which affect or which may affect deterrence from criminal behavior, the apprehension of offenders or fugitives, their prosecution, their trial, disposition, sentence, and rehabilitation.

The scope of these inquiries shall include, but shall not be limited to, studies of: (a) the substantive and adjective law of California affecting the administration of criminal justice and the maintenance of law and order; (b) the laws of California established for the protection of civil rights and the safeguarding of the privileges of individual citizens as provided for in the Bill of Rights; (c) the organization, administration, functions, policies, and practices of the office of district attorney and public defender; (d) the appointment of defense attorneys by the court and the utilization of legal aid societies; (e) the organization, administration, functions, policies, and practices of the courts with respect to their jurisdiction in criminal matters; (f) the organization, administration, functions, policies, and practices of county grand juries.

In making these studies, the commission is instructed to make use of such advice and consultation as the Judicial Council and the California State Bar may elect to make available to it.

Said commission is authorized to make partial and interim reports on such subjects within the general scope of its study and at such times as are deemed appropriate by said commission.

Said commission shall render its final report and recommendations to the Director of Corrections not later than July 1, 1949, and in the manner provided by Section 6028.3 of the Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this first day of November, A.D. 1947.

(Signed) EARL WARREN
Governor of California

ATTEST:
(Signed) FRANK M. JORDAN
Secretary of State

MEMBERSHIP—THE SPECIAL CRIME STUDY COMMISSIONS

Section 6028 Penal Code: Upon request of the Board of Corrections or upon his own initiative, the Governor from time to time may create by executive order one or more special commissions to assist the Board of Corrections in the study of crime pursuant to Section 6027 * * *.

Commission for the Study of Criminal Law and Procedure

Judge Isaac Pacht, Chairman
Attorney at Law
President of the State Board of Prison Directors
Former Superior Court Judge, Los Angeles County

Ellery E. Cuff.*
Public Defender of Los Angeles County

C. B. Horrall
Chief of Police of the City of Los Angeles
Junior Past President, Peace Officers' Association of the State of California

Cecil Mosbacher
Assistant District Attorney of Alameda County

William B. Neeley †
Public Defender of Los Angeles County

Maxwell M. Willens
Attorney at Law
Former President, San Joaquin County Bar Association
Former Assistant District Attorney of San Joaquin County

THE STATE BOARD OF CORRECTIONS

Section 6027 Penal Code: It shall be the duty of the Board of Corrections to make a study of the entire subject of crime, with particular reference to conditions in the State of California, including causes of crime, possible methods of prevention of crime, methods of detection of crime, and apprehension of criminals, methods of prosecution of persons accused of crime, the entire subject of penology * * *.

Mr. Richard A. McGee, Chairman
Director, State Department of Corrections

Mr. Walter A. Gordon, Vice Chairman
Chairman, Adult Authority

Mr. O. H. Close
Member, Youth Authority

Mr. Charles W. Dullea
Member, Youth Authority

Mr. Karl Holton
Director, Youth Authority

Mrs. Anne Humphreys
Chairman, Board of Trustees for the California Institution for Women

Mr. Gerald C. Kepple
Member, Youth Authority

Mrs. Helen Legg
Member, Board of Trustees for the California Institution for Women

Mr. Ervis W. Lester
Member, Adult Authority

Judge Isaac Pacht
President, State Board of Prison Directors

LIAISON REPRESENTATIVES OF THE STATE BOARD OF CORRECTIONS TO THE SPECIAL CRIME STUDY COMMISSIONS

Judge Isaac Pacht—Commission on Criminal Law and Procedure
Walter A. Gordon—Commission on Adult Corrections and Release Procedures
Karl Holton—Commission on Juvenile Justice
Ervis W. Lester
Commission on Social and Economic Causes of Crime and Delinquency
Charles W. Dullea—Commission on Organized Crime

* Appointed to succeed Judge William B. Neeley—March 1, 1949.
† Resigned February 14, 1949, upon appointment as Judge of the Superior Court.

CALENDAR OF MEETINGS *
of the
COMMISSION ON CRIMINAL LAW AND PROCEDURE

November 1, 1947-June 30, 1949

November 17 and 18, 1947—Sacramento
December 17, 1947—Los Angeles
January 15, 1948—Oakland
January 16, 1948—San Francisco
January 17, 1948—San Francisco
February 27, 1948—Sacramento
March 19, 1948—Santa Barbara
April 22, 1948—Stockton
July 9, 1948—Oakland
July 10, 1948—San Francisco
July 13, 1948—Sacramento
July 30, 1948—San Diego
August 28 and 29, 1948—Beverly Hills
September 11, 1948—Sacramento
October 18, 19, 20, 21, and 22, 1948—Los Angeles
October 29, 1948—Santa Monica
November 6, 7, and 8, 1948—San Francisco
November 18 and 19, 1948—Sacramento
December 7, 1948—Los Angeles
March 19 and 20, 1949—Oakland
April 22 and 23, 1949—Los Angeles
May 19, 1949—Oakland

THE SPECIAL CRIME STUDY COMMISSION'S STAFF

Administrative

Richard A. McGee—Director, State Department of Corrections
Frank E. Cane—Executive Officer, State Board of Corrections
Walter Dunbar
Assistant to Executive Officer, Field Representative, State Board of Corrections
Ronald H. Beattie—Statistical Consultant, Department of Corrections
Ann C. Welch—Assistant Socio-Economic Research Technician

Field Staff

COMMISSION FOR THE STUDY OF CRIMINAL LAW AND PROCEDURE

Ellery E. Cuff—Administrative Adviser (10-15-48 to 2-15-49)
John H. Paine—Assistant to Administrative Adviser (2-1-49 to date)

COMMISSION FOR THE STUDY OF ADULT CORRECTIONS AND RELEASE PROCEDURES

Malcolm E. Harris—Field Representative, Department of Corrections
Virgil J. O'Malley
Field Representative, Department of Corrections (1-1-48 to 1-15-49)

COMMISSION FOR THE STUDY OF JUVENILE JUSTICE

Ray N. Studt—Field Representative, California Youth Authority
Barbara L. Steiner—Research Assistant (10-10-48 to 1-17-49)

COMMISSION FOR THE STUDY OF SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY

Isaiah J. Shain—Senior Sociologist
Cletus J. Fitzharris
Field Representative, Department of Corrections (1-27-48 to 7-1-48)

* In addition to the general meetings above listed both the Northern and Southern California members of the group have spent many hours meeting together in their respective localities to discuss and study the legislative program and the recommendations contained in the reports of the commission.

COMMISSION FOR THE STUDY OF ORGANIZED CRIME

Warren Olney, III	Counsel
John H. Hanson	Chief Investigator (11-5-47 to 11-30-48)
H. G. Robinson	Chief Investigator (12-1-48 to date)
Virgil J. Wolfe	Investigator
Thomas P. Judge	Investigator
Edward L. Cochran	Investigator (7-1-48 to 1-31-49)
Herbert Van Brundt	Investigator (2-1-49 to date)

o

8310 5-49 3M

F364o: 954

State of California

Final Report

of

The Special Crime Study Commission

on

Social and Economic Causes of Crime and Delinquency

SACRAMENTO, CALIFORNIA

June 30, 1949

State of California

Final Report

of

The Special Crime Study Commission

on

Social and Economic Causes of

Crime and Delinquency

SACRAMENTO, CALIFORNIA

June 30, 1949

CONTENTS

Page

LETTER OF TRANSMITTAL—Richard A. McGee, Chairman, State Board of Corrections 4

LETTER OF TRANSMITTAL—Arlien Johnson, Chairman, Commission for the Study of Social and Economic Causes of Crime and Delinquency 5

PART I—INTRODUCTION 7
- A. Research Projects 7
- B. Concepts of Crime and Delinquency Causation 8
- C. Definitions of Crime and Delinquency 8

PART II—Findings 9
- A. Individual and Family Factors in Crime Causation 9
  - 1. Criminals Are Made, Not Born 9
  - 2. The Role of Emotional Immaturity 9
  - 3. Family Relationships Build Personality Traits 10
  - 4. Alcoholism Is a Symptom 10
- B. Population and Cultural Factors in Crime Causation 10
  - 1. Mobility and Migration 10
  - 2. Cultural Conflicts and Minority Group Problems 10
  - 3. Postwar Conditions Are Periods of Difficult Readjustment 11
- C. Economic and Environmental Factors in Crime Causation 11
  - 1. Unemployment Is a Social As Well As Economic Hazard 11
  - 2. Good Housing Helps to Prevent Delinquency 12
- D. Community and Institutional Factors in Crime Causation 13
  - 1. Community Disorganization Breeds Crime 13
  - 2. Use of Leisure Time Affects Delinquency Rates 13
  - 3. Religious Influences Need Strengthening 14
  - 4. The School Is Next to the Family in Its Influence on Personality Growth 14

PART III—RECOMMENDATIONS 15
- 1. Research 15
- 2. Statistics 15
- 3. Child and Adult Guidance Clinics 16
- 4. Community Self-Studies 16
- 5. Recreation and Leisure-Time Activities 17
- 6. Slum Clearance and Urban Redevelopment 17
- 7. Regulation of Migrant Labor Camps 17
- 8. Local Relief and General Assistance 18
- 9. Alchoholism 18

PART IV—PROJECTS FOR THE BOARD OF CORRECTIONS 19
- 1. The Young Mexican and Young Negro and Crime 19
- 2. An Examination of Parole Success as Related to Particular Causes of Crime 19
- 3. The Effect of California's Increased Population on the Problems of Crime and Delinquency 19
- 4. A Study to Determine an Effective Plan for Measuring Juvenile Delinquency 19
- 5. An Examination of Department of Corrections' Guidance Center Records of 500 Inmates to Ascertain Crime Causation as Related to: (a) Intelligence, (b) Educational Achievement, (c) Family Background, (d) Emotional Instability, (e) Vocational Achievement, (f) Mobility, (g) Religious Training, (h) Military Record, (i) Social and Cultural Background 19

Selected Bibliography to Parts I, II, III and IV of Studies of Crime and Delinquency Causation 19

PART V—REPORTS AND EXHIBITS 21
- A. California Agricultural Economy and the Problem of Crime 21
- B. A Study of Selected Social and Economic Factors Related to Crime and Delinquency in the Counties of Kern, Fresno, Riverside, and San Diego, State of California 41
- C. Criminal Statistics in California 95
- D. Comments on Crime Reporting in California 99

APPENDIX 105
- Executive Order of Governor Establishing the Commission 105
- The Members of the Commission on Social and Economic Causes of Crime and Delinquency 106
- The State Board of Corrections 106
- Liaison Representatives to the Special Crime Study Commissions 106
- Calendar of Commission Meetings 106
- Staff—The Special Crime Study Commissions 107

FINAL REPORT OF THE COMMISSION FOR THE STUDY OF SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY

EARL WARREN, *Governor* RICHARD A. MCGEE, *Chairman*

THE STATE BOARD OF CORRECTIONS

June 30, 1949

The Honorable Earl Warren
Governor of California
The Honorable Goodwin J. Knight
President of the Senate
The Honorable Sam L. Collins
Speaker of the Assembly

Pursuant to the provisions of Section 6028.3 of the Penal Code, enacted by the Legislature in 1947, I have the honor, in behalf of the Board of Corrections, to transmit the Final Report of the Special Crime Study Commission on the Social and Economic Causes of Crime and Delinquency.

The commission was established by the Governor on November 1, 1947, and its program initiated at the "Governor's Conference on Crime and Juvenile Justice," Sacramento, November 17 and 18, 1947.

The commission was given a most difficult and complex assignment which admittedly required continuous research and persistent study. Despite the immensity of the subject matter, and limited time and staff, the commission has achieved remarkable results. The commission has succeeded in setting forth in clear, concise terms those factors, which in its opinion, contribute to the increase of crime and delinquency in California in a most comprehensive manner. The special studies included in this final report, reflect the scholarly, objective approach of research and constitute valuable additions to the literature of this field.

In the judgment of the board, the findings, recommendations and special reports contained herein reflect the commission's conscientious and commendable work in studying this most difficult subject matter.

The Board of Corrections is unanimous in extending its congratulations and commendations to the chairman, members and staff of the Commission for the Study of Social and Economic Causes of Crime and Delinquency on having accepted an immense undertaking, and by a forthright and persistent effort, having contributed significant research and findings which will help to crystallize our thinking and understanding of this problem in California and elsewhere.

Respectfully submitted,

THE STATE BOARD OF CORRECTIONS
RICHARD A. MCGEE, *Chairman*
MR. WALTER A. GORDON, *Vice Chairman*
MR. O. H. CLOSE, *Member*
MR. KARL HOLTON, *Member*
MRS. ANNE HUMPHREYS, *Member*
MR. GERALD C. KEPPLE, *Member*
MRS. HELEN LEGG, *Member*
MR. ERVIS W. LESTER, *Member*
JUDGE ISAAC PACHT, *Member*
By RICHARD A. MCGEE, *Chairman*

June 30, 1949

State Board of Corrections
State Office Building No. 1
Sacramento 14, California

Attention: HON. RICHARD A. MCGEE, Chairman

GENTLEMEN: The Commission on Social and Economic Causes of Crime and Delinquency is herewith submitting its final report. The commission was appointed by Governor Warren in November 1947 in accordance with power vested in him by Section 6028 of the Penal Code, and has endeavored to carry out the Governor's instructions to "(a) make a general inquiry into social and economic causes of crime and delinquency in California, and (b) restrict its intensive studies to the more acute social and economic conditions productive of crime and delinquency."

Since the general causes of crime and delinquency are universal, the commission has relied upon the extensive research already available upon which to base Part I of the Report. The relevance of these general statements for California are noted. In Part II are included the special studies which have been made under the guidance of the commission by its Field Representative, Mr. I. J. Shain, or by other organizations which have responded to the request of the commission for assistance with studies of specific aspects of delinquency or its prevention. The need for continuing study of the problems of crime and delinquency is stressed and suggestions are offered for future research.

Acknowledgment is gratefully made of the untiring service of the staff; of the cooperative and helpful assistance given by various private and governmental agencies, particularly by the Bureau of Statistics, Department of Justice; and the Bureau of Public Administration, University of California; and of the many courtesies and valuable expressions of opinion which citizens and organized groups have made available to the commission through public hearings, letters, and reports.

In conclusion, it is a privilege to express my deep appreciation of the invaluable advice and assistance and the unselfish cooperation which have characterized the work of my associates on the commission—Mr. Floyd C. Covington, Dean Knowles A. Ryerson, and Dr. Walter A. Treadway.

Respectfully submitted,

ARLIEN JOHNSON, Chairman

PART I

INTRODUCTION

The attempt to identify and define the causes of crime and delinquency is a complex and challenging task. Modern criminology is still a relatively young discipline which is growing and maturing as the results of its numerous experiments, studies, and experiences in law enforcement, treatment, and corrections reveal more insight into the problems of offenders. While the basic causes of crime have never been delineated adequately, the associated characteristics in the social and economic environment which help to induce criminality and delinquency have been probed in considerable detail. Volumes of research in the multiple fields of sociology, psychology, psychiatry, biology, anthropology, and philosophy have been devoted to the further understanding of the etiology and genesis of crime, with only limited results. Etiological research is still in progress but lags behind knowledge of psychiatry and human behavior.

Broader horizons are constantly being expanded in the effort to rally the disciplines of psychiatry, medicine, sociology, psychology, and anthropology into formulating an adequate explanation of the fundamental enigma of crime causation. The known limitations of social research, and the defectiveness of our statistical knowledge and apparatus impede more rapid progress.

Crime and delinquency are symptoms of our greater social ills. They are the by-products of our social disorganization, and place a tremendous social and financial burden on society. Our efforts, therefore, must be ceaseless, bold and unremitting in seeking methods of prevention and in improving types of treatment.

Crime and delinquency are costly. Local and county jurisdictions in our State alone spent over fifty-six million dollars for the necessary protection to persons and property in the Fiscal Year 1947.[1] These costs exclude both expenditures of the criminal courts and property and facilities outlays of police, sheriffs and probation departments. State Government expended approximately fourteen million dollars for law enforcement and corrections in the same fiscal year. Additionally large sums were spent by the Federal Government for its law enforcement functions in this State.

Crime and delinquency absorb so large a part of our financial and social resources that the basic problems must be approached with considerable seriousness of purpose and determination. Only in this manner can we hope to determine the causes of crime; expose them to public light; and augment the efficiency of our enforcement, prevention, and treatment processes.

Even more fundamentally then through its enormous financial outlays, California's serious postwar crime problem was reflected in ever-mounting prison statistics and overcrowding of state penal institutions; increased probation loads; and the increases in known incidences of delinquent and criminal offenses. Cognizant of this tremendous problem, the chief executive of this State requested and was granted by the State Legislature, the authority to appoint five special crime study commissions devoted to various aspects of the State's crime problem. An appropriation was added to finance these studies.

[1] Figures obtained from California Controller's Office. *Financial transactions for municipal and county government for the Fiscal Year, 1947.* These figures represent the expenditures for municipal police departments, sheriffs, and probation.

The Commission on Social and Economic Causes of Crime and Delinquency, composed of five members representing the diverse fields of welfare, education, labor, medicine and psychiatry, public health, agriculture, and minority groups, devoted its principal attention and study to what is perhaps the basic crime problem—that of the etiology and genesis of crime and delinquency. Aided and directed by the Governor's executive order to "restrict its intensive studies to the more acute social and economic conditions productive of crime and delinquency," the commission started its work in November 1947 with the state-wide crime conference in Sacramento. Local and state-wide representatives of law enforcement, welfare, youth service, religion, probation, civic organizations, women's groups, minority groups, and municipal, county and State Government met with the commission at that initial meeting to contribute their experiences and suggestions for future study and investigation. Several of these suggestions were later incorporated into the limited study program of the commission.

Early in its work, the commission carefully examined the background of published information of the etiology of crime, and subsequently formulated a program of study and research which might throw light on and give information about the problem in California. From the outset, the commission was aided by the welcome contributions of its consultants from the Judicial Council, California Probation and Parole Association, and State Board of Corrections; the research staff and director of the Bureau of Public Administration, University of California; and the Associate Warden, Soledad State Prison, Department of Corrections, who served as the first field representative.

A. RESEARCH PROJECTS

The program of research and study included the following projects:

1. An examination of some of the selected literature in the field of crime and delinquency causation was undertaken to ascertain the findings and conclusions of leading sociologists, criminologists and psychiatrists. This was to serve as a basis of orientation for future commission studies.

2. A study which examined the activities of previous state-wide crime commissions in the field of crime causation. This report was designed for the multiple purposes of examining the findings, and study projects undertaken in the past by both California crime commissions and those of other states and, secondly, to prevent duplication of effort in this field.

3. A study was made of criminal statistics in California. It was discovered at the outset of the commission's work that criminal statistics in California, as as elsewhere in the Nation, were characterized by insufficiency of information, unreliability and incomparability. To conduct research properly in this field, it was necessary to have access to comparable and complete statistics. Since these were unavailable, the commission was of the opinion that a study of the background for this condition was fundamental in order to form the basis of a recommendation for its improvement. That recommendation was made in the

Second Progress Report and is repeated in this Final Report.

4. A report on California's agricultural economy and the problems of crime was undertaken. It had been noted by members of the commission that California's agricultural economy, distinct in its composite economic characteristics, and utilizing the services of approximately one-quarter million seasonal laborers annually, contained many risk factors usually found associated with criminal and delinquent behavior. Therefore a study was undertaken to bring together both the data on the magnitude of the problem, and the social and economic conditions confronting migrant workers as they related to crime causation.

5. Studies of four typical California counties to ascertain social and economic factors related to crime and delinquency were made. The commission chose Kern, Fresno, Riverside, and San Diego Counties, as typical of those with characteristic problems of both predominently rural and urban communities, for pilot study. Cognizant of the physical limitations of time, staff and funds, this technique of study was agreed upon as the best possible means for analyzing typical California causative factors, and for providing a basis for possible generalizations applicable to the remainder of the State.

6. A special study on crime prevention programs in the United States sponsored by local, state and national governments and private groups was undertaken by the Bureau of Governmental Research, University of California at Los Angeles, at the request of the commission. It describes a wide variety of crime prevention programs, but focuses its principal attention on local community efforts.

The commission, in addition to its study program, held numerous executive and public meetings. In connection with its broader responsibilities, and specifically for the four-county study, public meetings were held in the cities of Riverside, Fresno, and Bakersfield. These meetings were conducted upon invitation and with the cooperation of the respective county boards of supervisors. Through the medium of these meetings, the commission ascertained local problems and community thinking on the causative aspects of crime and delinquency. The participation of local citizens and public officials aided the commission considerably in its research and understanding of California problems.

The commission's public meetings not only revealed the nature of local problems, but also reflected some of the major areas of common needs in California. These needs, and associated risk factors contributing to crime and delinquency are described in subsequent sections.

B. CONCEPTS OF CRIME AND DELINQUENCY CAUSATION

The delineation of the causes and associated risk factors in crime and delinquency rested mainly upon approach as well as definition. Early in the commission's tenure, it took cognizance of several possible approaches to the etiology of crime and delinquency. The concepts of crime and delinquency causation, as a review of the literature revealed, were four-fold.

1. One theory has been that anti-social behavior results from causes within the individual that are beyond his control, such as epilepsy, atavism, degeneration, and the like—causes which have predestined certain individuals from birth to a career of crime. In the light of present day knowledge, this theory has largely been discarded.

2. A more recent school of thought has pointed to "social disorganization" (slums, inadequate housing and recreational facilities, unemployment, low income, etc.) as the primary root of criminal and delinquent behavior. Disciples of this school have placed the blame for the extent and rise of crime and delinquency on society which permits such disorganization to continue.

This theory, however, fails to explain the fact that a large majority of persons living in disorganized surroundings do not become criminals or juvenile delinquents. It does not explain why as socially disintegrating forces become more and more operative, some individuals turn to crime or delinquency while a great many more, living under exactly the same conditions, do not. It fails, in other words, to take into account the human causal factors such as personality or character strengths and deficiencies, effects of family relationships, emotional stability and instability, etc.

3. A third concept of the causation of crime holds that deficiencies within the individual himself are solely and exclusively responsible for his performing criminal or anti-social acts. It ignores entirely the factors within the individual's environment to which he reacts.

4. Lastly, current thinking with respect to crime and delinquency causation holds to the more balanced concept that it is the interplay of both environmental factors and individual personal characteristics which is responsible for criminal and delinquent behavior in certain individuals.

Well recognized areas of social disorganization such as slums, poor housing, unemployment, broken homes et al., represent risk factors in crime causation only in their relationship to and effect upon the attitudes and personality formation of individuals. As Professor Hans von Hentig states it: "Criminal behavior springs from the interplay of two groups of forces: the individual tendencies of human beings and manifold forces operating from without." [2]

Of the four theories of crime and delinquency causation above described, the commission subscribed to the last. Upon it, with general qualifications, its studies and approach to its objectives was based.

C. DEFINITIONS OF CRIME AND DELINQUENCY

Another primary task was the formulation of working definitions of crime and delinquency. The commission agreed, after considerable discussion of the wide variety of possible definitions, upon the following:

"*Crime* is an individual form of behavior that is contrary to the liberal ethical standards for human conduct prescribed by organized society, which by its nature, brings the individual within the scope of committing one or more specific acts prohibited by public law."

"*Delinquency* is that conduct of a minor person which requires correction or regulation in the interests of and for the protection and welfare of the child and society."

[2] Hans von Hentig, *Crime Causes and Conditions* (1947) p. 203.

PART II

FINDINGS

On the basis of its independent investigations and studies, review of etiological literature and concepts of crime and delinquency causation, the commission has made several findings. The following are, in its opinion, the causal and associated factors in crime and delinquency and their application to California.

A. INDIVIDUAL AND FAMILY FACTORS IN CRIME CAUSATION

1. Criminals Are Made, Not Born

Authorities agree that no individual is born with inherent criminal tendencies. Every child at birth has potentialities for both; some children require more guidance in acquiring social attitudes than do others. The mentally deficient child, for example, is in greater danger of becoming a delinquent than is a child with average intelligence because he is often suggestibly and easily led. The physically handicapped child may also need special treatment and guidance. His repeated failures in competition with the normal child may lead to such discouragement that he finds satisfactions in anti-social behavior. Special classes in the public schools for the mentally deficient who are trainable and state schools for those who need twenty-four hour supervision, have been found to be a protection for the child and for society. Similarly, special classes for the physically handicapped child give equal opportunities with other children.

IN CALIFORNIA

The state education laws require school boards to provide special classes for children with physical handicaps, either independently or by cooperative arrangement with a neighboring school district.[3]

Special classes for the mentally retarded also must be established if there are fifteen or more such children in a school district.[4]

In March 1948, thirty-five counties provided classes for physically handicapped children in the elementary school grades. However, only twenty-five of those counties had enrollments greater than ten physically handicapped children.[5]

Special ungraded classes for mentally deficient children were provided in thirty-four California counties in March, 1948. However, only eighteen counties had more than ten children enrolled in ungraded classes. The inadequacy of these facilities is reflected by the comparatively low enrollments in counties with large populations. Fresno County had only twenty-two ungraded children enrolled. Riverside County had none. There were only thirty in Contra Costa County.[6]

2. The Role of Emotional Immaturity

Crime may be regarded as a form of self-expression, and therefore, it must be closely bound with a will to live as an individual, and with it, an innate desire and drive toward individual self-expression. The motives, desires and aims of every life encounter a wide variety of challenges and competitions. They meet with demands to compromise with adversity and disappointments. The reciprocal results of the impact of interpersonal relationships are of great importance.

Social and economic environmental factors and their emotional evaluations, are significant in shaping the type or kind of individual personalities. The composite mosaic of living experiences influence not only the directional flow of basic and fundamental human energies, and physiological drives, but they also influence in large degree, the quality of their expression, and in some measure, their quantity also.

Doubts, fears, anxieties and emotional opposition toward prospective parenthood tends to establish tensional states within the family circle. These tensions create for a newly born child, an emotional environment that is not conducive to the development of an intimate sharing of trust, mutual confidence, considerations, faith or justice within the family configuration.

The emotionally immature parent can serve as the instrumentality for initiating the pattern of human behavior in infancy which bears particular reference to the child's future relationships toward others and to the way he feels and thinks about his environment. The outlines of an unwholesome behavior pattern, established in infancy, becomes more crystallized with the advent of that period of emancipation from infancy to childhood, when the child's associates become eager to socialize him and to demand the acceptance of conformity with culture patterns.

The emancipation period of transition from youth to maturity is beset with many conflicting desires. In this stage of emotional growth and development, characterized by much uncertainty, there is a great intensity for mistaking abstract concepts or notions for concrete realities.

Psychiatrists assert that when circumstances, events or personalities completely surpress the spontaneous impulses of youth arbitrarily, harshly or inconsiderately, they lead to all sorts of further emotional conflicts; to acts of secret and open disobedience; to adverse social behavior of a vindictive quality; and to other types of rebellious reactions that are frequent in character.

Emotional immaturity interferes with the wholesome development of the personality. The likelihood for self-expression through antisocial behavior is therefore increased. Because of their emotional unbalance and improper social evaluations, these individuals may, and in specific instances, do resort to criminal and delinquent behavior.

IN CALIFORNIA

There is much restlessness and instability which is characteristic of a population composed so largely of migrants, asserts Dr. McEntyre. "The changefulness and instability of California life must also be accentuated by the fact that at all times so large a proportion of the people are newcomers to their communities." [7]

[3] California. Education Code, Section 9601.2 (1947).
[4] *Ibid.*, Section 9802.
[5] California. Department of Education, *California Schools*, 19:192, June, 1948.
[6] *Ibid.*, p. 192.
[7] Commonwealth Club of California, *The Population of California* by Dr. Davis McEntyre, 1946, p. 233.

3. *Family Relationships Build Personality Traits*

Studies by Healy and Bronner, Friedlander, Freud and Burlingame, among others, have shown that mutually satisfactory relationships between children and their parents is a fundamental requirement for the development of a socially well-adjusted personality. Healy and Bronner found that the chief difference between delinquents and nondelinquents was in the relationships of the two groups to their parents. The nondelinquent had satisfying family relationships. The delinquent, on the other hand, frequently felt unloved and unwanted, with the result they developed feelings of hostility toward the world and a lasting sense of injury. Their misbehavior was their way of defending themselves against intolerable conflicts and anxieties, or of asserting themselves in retaliation against an unjust and hostile society.

As we have previously stated, the modern concept of causality is that all personality development is the result of a continuous, dynamic interplay between individual endowment and environment. Situational factors, therefore, may facilitate or impede growth of desirable social attitudes toward oneself and toward others. Broken homes, sibling rivalry, loss of parents through desertion or death, discord between parents, are among the situational factors that have been found to occur more frequently among delinquents' families than nondelinquents' families.

IN CALIFORNIA

Homes are broken through divorce more frequently than in most states. In 1946, the latest year for which nation-wide statistics are available, the divorce rate in California was 5.6 per 1,000 population as compared with 4.3 for the United States as a whole. California's proximity to both Nevada and Mexico, where divorce laws are exceedingly liberal, doubtlessly affects the number of divorces made in this State. California's actual rates of divorce therefore, are probably considerably higher.

4. *Alcoholism Is a Symptom*

Many crimes are committed by persons who are chronically excessive drinkers. The Director of the Section on Alcohol Studies, Yale University, states that "Alcoholism is most effectively understood as a complex, progressive condition involving social, psychological, and physiological symptoms, all of which are bound up with chronic excessive drinking * * * The progressive constellation called alcoholism is more likely to appear in individuals who have personality difficulties, who are placed in situations which they are not able to face, and who live in a social milieu in which drinking is an acceptable but an ill-defined pattern."[8] Alcoholic consumption enables a man to escape from his inhibitions; it reinforces the weak personality with a false sense of security. Many drinkers, fortified by alcohol, commit acts of criminality as court records and files of institutions testify. Alcohol modifies normal and healthy relationships and destroys the reality of formerly held social values. It helps break up families and weakens social institutions.

IN CALIFORNIA

Alcoholism has been found closely associated with crime, according to studies and reports of the Special Crime Study Commission on Adult Corrections and Release Procedures. Its findings, in another report, present the extent of the problem in California.

In the special four-county study of the Social and Economic Causes Commission, approximately 50% of all arrests in Kern, Fresno, Riverside, and San Diego were for alcoholism.

[8] Selden Baker, "Alcoholism", in *Social Work Yearbook*, 1949, p. 48, 50.

B. POPULATION AND CULTURAL FACTORS IN CRIME CAUSATION

1. *Mobility and Migration*

Migration and mobility are two important factors which reduce the effectiveness of community controls. Frequent mobility weakens the structure of community mores so painstakingly built up over a period of years.

Mobility involves both changes of stimulus and response to new stimulus as well as movement. It involves psychological as well as physical changes.

Extreme mobility has demoralizing effects by breaking down primary group controls. Moral standards are weakened, such as standards of right and wrong, proper and improper conduct which we derive from the primary group.

Pitrim A. Sorokin's famous study, "Social Mobility," discusses the disorganizational concepts of mobility in great detail. The mobile individual, unrestrained by the absence of home ties, loses his sense of social responsibility and takes advantage of the break in social custom. The rigidity of social organization from which communities and individuals derive their stability, is lost and destroyed when there is high mobility of a large number of persons.

Mobility also increases psychological isolation; diminishes the intimacy of group contact; and builds mental strain by expanding the possible choices and alternatives in a given situation. Moral standards are practically nonexistent for the mobile man, says Sorokin.

IN CALIFORNIA

The large number of agricultural migrants, and equally phenomenal increase of newcomers to the State, at a more rapid rate than elsewhere in the Nation, comprise two select aspects of its tremendous rate of mobility. It has been estimated that there are at least 150,000 agricultural workers and their families who follow the crops.[9]

There has also been an estimated gain in California population from 1940-1948 of 45.2% or in excess of three million new residents.[10]

California's growth will continue, asserted the California Reconstruction and Reemployment Commission in its 1947 report. "It is certain that the State's population will continue to grow at a rate higher than that for the Nation as a whole. Migration from other states . . . probably will continue to be the principal factor in California's steady growth."[11]

2. *Cultural Conflicts and Minority Group Problems*

The absorption of new and diverse cultural elements, and the subsequent cultural conflicts, as well as strains on existing facilities, opportunities for employment and housing, foresees tremendous social problems for the

[9] See *California Agriculture and the Problem of Crime*, in appendix.
[10] U. S. Department of Commerce, Bureau of the Census, *Provisional Estimates of the Population of the United States by Regions, Divisions, and States, July 1, 1948* (Series P-25, No. 14) (1948).
[11] California. Reconstruction and Reemployment Commission, *Third Report to the Governor and the Legislature*, November, 1947, p. 12.

State. The high percentage of new residents in our penal institutions reflect, in part, this problem. During 1946 and 1947, for example, 43.2% of new commitments had residence only since 1942 and 1943.

In California's historical development, population migration of different minority racial and nationality groups played an important role. Chinese, Japanese, Filipinos, and Mexicans came in successive immigration waves to this State and provided a source of cheap agricultural labor.

California's white in-migrant population was drawn from other states, as well as large numbers of Italians, Portuguese, Irish, English, Scandinavians, and Southeastern Europeans.

More recently, sizeable increases of Negro in-migrants have been significant. The San Francisco Bay Area, for example, gained 44,921 new Negro residents from 1940-1944, or a growth of 227.3%. Los Angeles' increase of Negro residents in the same period was 78.2%, or an additional 59,023. In other areas of Negro concentration, San Diego and Stockton, there were growths of 74.5% and 115.1% respectively.[12] "Available information," comments Dr. McEntyre in the Commonwealth Club study of California's population growth, "indicates that the large majority of Negro migrants came from . . . Louisiana, Texas, Arkansas, and Oklahoma—high in past Negro in-migration."

Assimilation of the diverse nationality and racial groups within California's predominantly white population has varied. The American Council on Race Relations reported in 1946 that "the North European immigrants have become assimilated with the white majority, but Italians, Portuguese, and Southeastern Europeans are only partly integrated. They live in sizeable colonies and participate moderately in life around them. On the whole, they are identifiable as separate groups."[13]

Integration and acceptance of Negroes, Mexicans, and Orientals has not kept pace with white group assimilation.

It has been suggested that the division between white and minority racial groups is reflected in the allocation of occupations. "Whites occupy practically all positions of power, wealth, and occupations. They dominate the professions almost exclusively, as well as managerial and skilled jobs. The great majority of colored breadwinners are found in semiskilled and common labor work. Mexicans are employed in agricultural work in the lowest paid, unskilled industrial employment, as railroad track workers, etc. A similar situation exists with regard to Filipinos. Prior to their wartime evacuation, persons of Japanese ancestry attained some degree of economic independence."[14]

IN CALIFORNIA

Recent movements of Negro in-migrants from the South back into agricultural labor has taken place. This same group which migrated to California to fill industrial jobs during the war production period are finding those opportunities closed. In order to maintain economic sustenance, they have had to return to unskilled agricultural jobs, and large numbers are picking cotton in the San Joaquin Valley region.

[12] Commonwealth Club of California, *The Population of California*, by Davis E. McEntyre, 235 p. (1946).
[13] American Council on Race Relations, Intergroup Relations in San Diego, 35 p. (1946).
[14] *Ibid.*, p. 7.

Minority group reactions to the apparent contradictions of racial discrimination and the American creed of freedom are not clear. There are, however, evidences of resentment and cynicism among minority groups to this basic contradiction. The protective in-group alliances among minority groups; the special languages and dialects which they often use to defy comprehension; and the "Pachuco" manifestations among young Mexicans are prominent examples of group reactions to discrimination.

There are also a disproportionate percentage of minority racial and nationality group member commitments in our state institutions. Male Negro adult commitments during the two years, July 1, 1946-June 30, 1948, comprise 20.1% of the total, while male Mexican adult commitments represented 13.7%.[15] These commitment statistics reflect both minority group difficulties in making social and economic adjustments, and perhaps equally, the presence of hostile community attitudes toward minority group offenders.

3. *Postwar Conditions Are Periods of Difficult Readjustment*

Wars have tremendous social impact and consequent disorganizing effects both during the period of martial conflict and during the postwar readjustment era. Readjustment to normality and the resumption of acceptable social ideals require difficult and slow transition.

The mass and wholesale separations of families for long extended periods of time; the sublimation of normal relationships and desires; the impact upon group mores as a result of mass mobility and migration; and the glorification of brutality and aggressiveness, as well as the resulting psychological alterations during a war, place great strains upon our moral standards and social controls.

The return to normality has been impeded by three factors: (1) the persistency of the international crisis, (2) the obstacles imposed by widespread mobility and migration, and (3) the specific shortages in housing and public facilities.

These conditions, following in the aftermath of a major war, with its fundamental problems of social unrest and painful readjustment, are part of contemporary social disorganization. Select aspects of our symptomatic social disorganization which find themselves reflected in our contemporary social problems are: (1) increased divorces and separations, (2) family breakdown, (3) increased problem of alcoholism, (4) increased problems of mental health, (5) the diminution of positive religious influences, and (6) increases in crime and delinquency.

These are the tremendous social costs of a war which tax both the strength and cultural bases of our democratic institutions. They tend to augment and influence our problem of crime and delinquency as our social institutions readjust themselves on a firmer base.

C. ECONOMIC AND ENVIRONMENTAL FACTORS IN CRIME CAUSATION

1. *Unemployment Is a Social as Well as Economic Hazard*

There has been persistent emphasis among criminological researchers that poverty alone and per se is not a cause of crime. However, it is also acknowledged that the

[15] California Department of Corrections, *Biennial Report, 1947-1948*.

unsatisfactory human relationships which usually flow from destitute and poverty stricken homes and neighborhoods unduly influence subsequent delinquent and criminal behavior.

Poverty and unemployment create anxiety within the family group; deprive the family and children of social status by reason of economic need, and often create emotional and physical deprivation.

In a study prepared for the Wickersham Commission, Dr. Mary van Kleek, following investigations into the background of approximately 300 offenders concluded:

a. The ranks of the unemployed yield more material in proportion to their numbers for penal institutions than do the ranks of the employed.
b. The records over a period of years indicated that the proportion of unemployed among the men committed was larger in hard times than in good times.
c. Unemployment is a circumstance present more frequently in crimes against property than those against person.

The level of our general knowledge of crime and delinquency etiology is not well enough grounded to forecast and delineate positive causative factors. Studies of the presence or absence of specific characteristics of personality, economic and social background, mental make-up of youthful offenders as compared with their siblings or acquaintances in a similar social setting have led to several findings. These findings, briefly summarized, are that important determinant characteristics in crime causation are personality and emotional maladjustment in a particular social setting. But co-equally there is wide recognition that these factors are often the by-products of the specific community background. Stresses and strains on the family constellation are common in homes marked by economic deprivation. Children who have to attend school in worn clothes, sometimes hungry, often develop feelings of inferiority and of being different. Certainly these children do not enjoy the social status of other children. The children of migrant workers in the rural slums are particularly affected and discriminated against socially by reason of their social and economic disadvantages.

The overwhelming deleterious social conditions that accompany extended unemployment often may create the fertile soil from which delinquency and criminality may arise.

IN CALIFORNIA

Unemployment estimates have showed steady increases since 1948. The State Department of Employment quarterly bulletin on employment and unemployment in California has shown that since October 1948, there has been an increase of 308,000 unemployed. Furthermore, rising unemployment is predicted.

2. *Good Housing Helps to Prevent Delinquency*

Considerable research effort has been done to determine the influences of slums, congested and inadequate housing upon crime and delinquency. In the larger urban areas, as well as in some of the rural sections, slums and inadequate housing are characteristic dwellings of a large segment of the population. The studies of the New York Crime Commission indicated that a large percentage of juvenile adult offenders came from the slum areas of New York City. Shaw and McKay in their studies of delinquency areas in Chicago made similar findings. The fact that a high proportion of criminals emanate from slums does not in and of itself establish a definite causal relationship. The measure of co-equal factors, such as personality development, family solidarity, mental and physical equipment, must enter into the mosaic of personal experiences along with environmental influences in the community in order to find true causality. The difficulties and limitations of such studies in the past have been their almost exclusive emphasis upon sociological factors. They failed to give equal and perhaps fundamental weight to psychological factors. Nonetheless, slums, deteriorated neighborhoods, congestion and overcrowding must be considered with appropriate seriousness for their contributory role in crime and delinquency causation.

Out of slums often come the protective in-group alliances against agencies of law enforcement, a deterioration of social ideals, and hostile, aggressive personality patterns. Protective gangs are often formed among youths and adults, devoted to the purpose of obtaining, through illegal means, some of the material things they lack. Petty pilfering and hijacking are common pursuits of these gangs, and the more illicit sexual and immoral codes are often perpetuated and practiced.

Glorification of the young offender who has had contact with the police is common. The delinquent youth may achieve social status and is thereby encouraged to further law violations. The hostility, air of braggadocio, and cynicism of the "dead end" type of child, whose counterparts are extant in the slums and areas of social and economic deterioration throughout the Nation, is merely the protective personality coating for some of the most common frustrations, repressions and insecurities.

The slums, therefore, though productive of good citizens, as the many persons who have risen above their environment to personal and professional success have demonstrated, are nonetheless part of the mosaic of contributing factors to crime and delinquency.

IN CALIFORNIA

The rapid and phenomenal expansion of California's population has placed considerable burdens on public and private facilities. The housing problem is acute, as a recent study of the Legislature disclosed. The Joint Senate-Assembly Committee on the Housing Problem of the California Legislature reported in 1947:

"The minimum number of dwelling units needed to provide California's urban families in 1947 with housing of minimum standards of safety, sanitation, and decency is 743,569." [16]

These estimates do not include rural needs for farm labor housing and for those who wish to farm in California. The need for more farm labor housing for agricultural workers is acknowledged in the most recent study by the California Joint Legislative Committee on Agriculture and Livestock Problems. Although no actual estimate of the number of units was given, it was generally recognized to be sizeable.

The dramatic spectacle of family separations because of housing difficulties have been amply reported in California's newspapers. Overcrowding and overtaxing of

[16] California. Legislature, Joint Senate-Assembly Committee on the Housing Problem, *Report 1947*, p. 12.

available facilities have deprived many adults and children of their necessary privacy and have affected personal development.

In a study of two contrasting sections of San Francisco, the Marina and Geary-Fillmore, the San Francisco Planning Association reported these findings: In the slum area (Geary-Fillmore) there were 4,771 residents arrested as compared to only 39 in the better housed neighborhood (the Marina). There were 100 known cases of juvenile delinquency in the Geary-Fillmore district as compared to only 17 in the Marina neighborhood. These differences in arrests and delinquency existed despite the fact that both areas were of approximately the same population size.[17]

D. COMMUNITY AND INSTITUTIONAL FACTORS IN CRIME CAUSATION

1. *Community Disorganization Breeds Crime*

A disorganized community is a lawless community. A community in which there is abnormal prevalence of vice, crime and police corruption is an ineffective instrument of government. Special privileges to those "on the inside" breeds hostility and disrespect of law enforcement, and encourages further lawlessness, and increased delinquency and criminality.

Such a community is often disinterested in the processes of local self-government. Effective and broad community participation in governmental and local affairs by the citizenry is one of the means whereby improvement and community well-being can be realized.

Community disorganization is often characterized not only by disrespect for law enforcement, the prevalence of vice and crime, but also by poor housing, vicious neighborhoods, economic insecurity, inadequate welfare and health services, a poor educational system, low percentages of religious participation, inadequate recreation, and other obstacles to sound, healthy community living.

Such a community often provides a disproportionate share of young and old offenders to the courts and institutions of our State, and must be considered an important risk factor in crime and delinquency causation. The inadequacies of its own services, the symptoms of economic and social deterioration, and the ineffectiveness of its law enforcement machinery all contribute to further encouragement of acts contrary to the more commonly held standards of decency and law-abidance.

IN CALIFORNIA

Constant vigilance has been required to combat the influences that make for community disorganization. These include sudden and large influx of population during and since the war, a sizeable migration of Negroes from rural southern states especially to Los Angeles and the San Francisco Bay region where new ways of living had to be learned; and the presence of an oversupply of migrant labor without ties to any community. The fact that coordinating councils were already widely organized has been helpful in many parts of the State. Community organization has also been furthered through the program of surveys and consultation in delinquency prevention which has been fostered by the Youth Authority. Nevertheless, serious problems are found in both rural and urban centers of population.

[17] San Francisco, Planning and Housing Association, *Blight and Taxes* (1948).

2. *Use of Leisure Time Affects Delinquency Rates*

The use of leisure time involves opportunities for rest, play and recreation. The wholesome and judicious use of leisure-time activities is a positive force in the battle against delinquency and crime. The failure adequately to utilize leisure time is often the co-equal failure to affect wholesome adjustments.

That children with undirected leisure-time activities often pursue and emulate the leadership and activities of unwholesome companions is known. The child who follows unsatisfactory companions in anti-social pursuits is a major concern. Instability of emotions and personality, weaknesses in moral training, the need for recognition, as well as the absence of recreational opportunities within the neighborhood help to explain the child's motivation in following such leadership.

The inadequacies of leisure-time activities are not exclusively the property of the disadvantaged. Poor orientation, over-protection, and over-affection of those children from families with distinct economic security also affect their proper social adaptation. The absence of adequate training in the effective and constructive uses of leisure time motivates adversely against economically secure children also.

In addition to organized public recreational activities, children find leisure-time outlets by reading comic books, attending motion pictures, and listening to radio programs. The effects of harmful comic books and gangster movies have never been adequately measured though there seems to be little question about the ultimate impact upon both the ideals and subsequent behavior of children who are easily affected. Children in the impressionable stages of life, involving constant reorientation of goals, ideals and ambitions are often unduly influenced by the glorification of brutality, murder, social callousness and the air of bravado of the hero of gangster films, poor grade comic books, or radio crime programs. Emulation of the screen, radio or crime book hero often becomes an instrument of social glorification and recognition. The efforts of parent-teacher associations, women and civic groups to combat these potentially harmful social influences have been commendable, though limitedly successful.

In an early study of the effects of the newspaper on crime, Raymond Moley suggested that newspapers should exercise more care in printing news of crime.[18] Certain segments of the public press print crime information in too great detail which in turn has a deleterious effect upon persons whose mental age and characteristics permit them to be profoundly impressed or influenced by what they read.

IN CALIFORNIA

The natural resources for outdoor recreation have been recognized by many communities which have established parks, bathing beaches, picnic facilities and facilities for outdoor sports. Commercial recreation has been influenced by the proximity to Hollywood. California has led in creating a state recreation authority which has, in the year of its existence, stimulated and encouraged local recreation planning throughout the State.

[18] New York. Crime Commission, *Report*, 1930.

3. *Religious Influences Need Strengthening*

The apparently continuous weakening of religious influences is one of our contemporary social characteristics. The previous strong role of the church in the smaller community, where it acted as a source of social strength and solidarity, as well as the teacher of social principles, has been modified to a considerable extent under the impact of current materialistic attitudes. Social values are replaced by the striving for material gain.

Greater numbers of children are reared without the reinforcements of religious influences and the desired codes of social behavior. J. Edgar Hoover has publicly asserted that there would be less delinquency among youth if there were greater Sunday School attendance. There are many who would agree with this analysis.

Religious leaders point to the absence of religious training in the early history of many of our known delinquents and criminals as a causative factor. Conscious attempts are made in our penal institutions to provide a broad, extensive program of religious training for the inmates.

The effect of the absence of religious training and the decline of contemporary religious influence upon crime and delinquency etiology must still be weighed. Religion has the potential of tremendous good by reinforcing acceptable social ideals and deterring harmful ones. The truly religious person, whose guide for conduct is the Golden Rule and the philosophical and social teachings of the Bible, is doubtlessly less likely to commit crimes than the person without the reinforcement of religious ideals.

The absence of religious training and the weakening of religious influence is but one of a composite of risk factors in the etiology of crime and delinquency.

4. *The School Is Next to the Family in Its Influence on Personality Growth*

The school represents, for most children, their first experience in a truly social setting. The early influence of the teacher is important because it can either develop a respect or an eternal distrust and reaction against authority. The teacher who fails to recognize individual differences of her students and who exercises rigid discipline, is not an effective teacher. She is substituting the blunt instrument of discipline for understanding.

The educational system also is an effective place for diagnosing behavior problems among students. Their early referral to treatment agencies may avert subsequent and more serious difficulties. Teacher training increasingly includes a knowledge of mental hygiene. Additional guidance divisions in the school system are needed to provide the specialized services of psychiatrists, psychologists and social workers for the child with problems.

The recalcitrant and undisciplined problem child is often reflecting his inability to cope with social adjustments and clearly demonstrating the need for further guidance and attention.

A more extensive child guidance program is an economy in the long run. The programs in Los Angeles, San Francisco, and San Diego school systems, among others, are commendable. An excellent publication of the Los Angeles County School Department, "Diagnosing School Causes for Delinquency", reflects the level of interest so necessary in our schools. The report suggests the following for helping predelinquent boys to overcome feelings of inadequacy, immaturity and instability:

a. Opportunity for anti-social and aggressive boys to have social responsibilities.
b. Worthy and judicious praise to those who have experienced a history of failure and criticism.
c. Performance of simple tasks by immature and ineffective boys at which they can, with effort, succeed.
d. Group activities adapted to individual interests.
e. Sympathetic listenings to the maladjusted boy.[19]

IN CALIFORNIA

The State School System has a nation-wide reputation for its extensive support of educational activities, progressive curricula and teaching methods. But the recent large influx of population has overtaxed many school districts. The Governor, in his 1949 budget message to the Legislature, commented that "we find that school classes are still being held under difficult conditions * * * The crowding of children in our public schools * * * makes it difficult to maintain the teaching standards that our people demand." [20]

Estimates of future school population predict continuous increases. The recent report of the Assembly Interim Committee on Education estimates that in 1960, the enrollment in grades, kindergarten to twelfth, would reach a possible high of 2,824,000 students. Estimates of high enrollment in the same grades in 1949 are 1,698,350 students.[21]

[19] Los Angeles. County. School Superintendent, *Diagnosing School Causes for Delinquency*, p. 17.
[20] The Annual Message to the Legislature by Governor Earl Warren, January 3, 1949, in *The Assembly Journal*, January 3, 1949, p 33.
[21] California. Legislature. Assembly. Interim Committee on Education, *Second Report* (1949) p. 14.

PART III

RECOMMENDATIONS

The Commission for the Study of Social and Economic Causes of Crime and Delinquency, on the basis of its studies and public inquiries, offers the following conclusions:

1. Crime and delinquency constitute forms of behavior contrary to the liberal standards for conduct prescribed by organized society, and which by its nature, brings an individual within the scope of committing one or more specific acts prohibited by public law.

2. There is no one specific cause for criminal behavior nor is there any one specific treatment. Nevertheless, it is generally considered that the problems of delinquency and crime are distinctly social in origin, which demand studies and investigations through a broad approach, embracing a better understanding of the individual psychiatric and personality factors involved in such behavior. This should include studies extending into family interrelationships, community attitudes toward law and order, the alliance of such attitudes, and in a more specific sense where, when and under what conditions criminal and delinquent behavior occurs.

3. The hope for ultimate control and prevention of delinquency and crime seems to lie in the direction of detection, recognition and treatment of emotional and behavior problems and difficulties at an early time of life.

4. This control can be made more effective through the establishment of community activities, directed toward the more general influences on the lives of its members; and through the extension of the interests and activities of educational, social, medical, health, welfare and spiritual services.

5. It is evident that the child who is destined or trained to become a delinquent through causes inherent in the atmosphere of criminality within the community in which he lives, can be best controlled through a change that strikes at the roots of neighborhood cultural standards.

Therefore, the Social and Economic Causes Commission proposes and submits to the State Board of Corrections and the Legislature, the following recommendations for the amelioration, solution and control of the social and economic causes of crime and delinquency in California:

1. RESEARCH

Recommendation I. Board of Corrections Encouragement and Sponsorship of Further Research Studies and Investigations on the Fundamental Nature and Causes of Criminal and Delinquent Behavior.

Supporting Data:

Few definitive findings are extant to this date on the fundamental causes of crime and delinquency despite the enormous amount of research that has been undertaken in the past. Previous studies have merely revealed likely risk factors in the social and economic environment which may contribute to crime and delinquency. It is therefore important and fundamental to the areas of law enforcement, treatment and crime prevention that efforts to determine the etiology of crime and delinquency be unremitting and ceaseless. Inasmuch as the Board of Corrections is directed by Section 6027 of the California Penal Code to study the causes and other aspects of the crime problem, it is their responsibility to conduct and stimulate research in this field. In so doing, the commission wishes to recommend that they utilize the resources of universities and colleges in the State, private agencies, and their own treatment facilities. The commission has submitted, in another section of the final report, a partial list of specific research topics which it proposes for further study.

2. STATISTICS

Recommendation II. That the Bureau of Statistics, Department of Justice, Which Serves as the Central Statistical Agency for the Department of Corrections, Youth Authority, and Department of Justice Be Transferred to the Department of Corrections to Function as the Central Statistical Agency for All Member Agencies of the Department of Corrections and the Department of Justice to Be Administered by the Director of Corrections in Accordance With Policy Established by the Board of Corrections. The Department of Corrections Should Be Given an Appropriation in Their Forthcoming Budget for This Purpose, Sufficient to Permit Coordination of All Statistics Dealing With Crime and Delinquency at the State Level of Government and Adequate to Provide Field Staff Assistance to Local Jurisdictions in the Development of a System of Uniform and Accurate Recording and Reporting of Crime and Delinquency in California.

Supporting Data:

In the commission's Second Progress Report, it recommended transfer of the Bureau of Statistics from the Department of Justice to the Department of Corrections. It repeats that recommendation because it is of the opinion that such transfer would help raise the level of local statistical reporting in the field of crime throughout the State, and thereby provide a continuous source of information of the incidence of crime in California.

In substantiation of that recommendation, the commission noted in its previous report, that there are some 300 municipal police departments and 58 sheriffs' offices completely independent of each other and responsible only to their own local governments, from which basic crime statistics must emanate. At present there is neither reliability, nor comparability in their statistical reporting.

Before adequate state-wide criminal statistics can be developed, positive and aggressive leadership of a state authority will be required to create and maintain a reporting relationship with several hundred independent police agencies, courts, jails and probation departments. These agencies are the only sources of information relating to crime on the local level.

The fault does not lie in lack of legislation to authorize such statistical collections. Comprehensive legislation is on the statute books of California authorizing the Division of Criminal Identification and Investigation to collect data on all phases of crime from all agencies in the State having any relation to the enforcement of law and the administration of criminal justice.

And neither does the fault lie with the present personnel of the Bureau of Statistics. The chief of the bureau has a national reputation as a criminal statistician. He is capably assisted by the members of his staff. However, at present, they are not adequate in number to perform the major task of creating a uniform system of criminal statistics in California.

During the past three years of the bureau's existence in the Department of Justice under two different attorney generals, there has been no real development in the statewide efforts to collect criminal statistics. The Attorney General and the Department of Justice are normally most interested in specific situations relating to crime and not in the general field of statistics.

The agencies which are most interested and most demanding in their requests for adequate statistical knowledge of crime are those responsible for the treatment of persons convicted of crime. They are attempting to improve the attitudes and behavior of persons who have committed crimes and release them into society following rehabilitation. These agencies, therefore, are most interested in the whole field of crime and law enforcement, the incidence of criminal behavior, as well as the processes of the administration of justice. It would seem, therefore, that the Department of Corrections has the greatest need for reliable statistics and therefore would promote an effective program of obtaining statistical information.

The location of the bureau in the Department of Corrections, the commission believes, would give the needed impetus to the development of a state-local plan for cooperation in recording and reporting.

3. CHILD AND ADULT GUIDANCE CLINICS

Recommendation III. Enlistment of the Support, Aid, and Collaboration of Federal, State, and Local Agencies Ministering to the Medical, Health, Welfare, Educational and Family Counseling Services for State-Wide Extension of Child and Adult Guidance Clinics, to the End That Emotional and Behavior Problems May Be Early Recognized and More Adequate Treatment Provided for Them.

Supporting Data:

Child and adult guidance clinics play fundamental roles in crime prevention by providing adequate treatment for emotionally maladjusted persons, and thereby effectuating more wholesome and normal adjustments. The psychiatric and psychological aspects of crime causation are important, as research by Drs. Healy and Bronner the Gluecks, Alexander and others have revealed. Psychological maladjustments are evident in the early criminal careers of many offenders. By providing for adequate treatment at an early stage, and by effecting wholesome mental and social adjustments, progressive steps will be taken to curtail future crime and delinquency.

To implement this recommendation, the commission urges the following steps be taken:

(a) Establishment of a state system of traveling mental hygiene clinics to provide the necessary psychiatric services for those smaller communities without adequate psychiatric professional personnel. Local schools should be afforded the opportunity to refer some of their problem children to these clinics for early and immediate treatment.

(b) Increased local support, through community chest and other types of voluntary contributions, to existing guidance clinics to enable their further and necessary expansion of services.

(c) Expansion to additional communities of local clinics of the State Department of Mental Hygiene in accordance with availability of necessary professional personnel.

(d) Support through educational funds for local guidance clinics to provide services for school districts. Where a single district cannot support financially such services, then it is suggested that several districts cooperatively undertake such ventures.

(e) Local and county governmental officials, in cooperation with local medical associations, should attempt to determine methods of expanding their child guidance and mental health programs in accordance with local needs.

Child guidance clinics have been used with unusual success in schools, courts, and in the community at large. They have been both publicly and privately operated. In the early phase of the child guidance movement, most of the active work was done on an out-patient basis. Recently, resident center treatment programs have been introduced. The child's admission to the resident center and his temporary stay there are part of the treatment plan. Parents or substitutes for them maintain custody and close contact with the child during his stay. Highly qualified personnel with specialized professional training are required.

In smaller communities and more sparsely settled areas, where operation of a full-time child guidance or separate adult services is impracticable, the all-purpose clinic has been established. These offer services jointly to children and adults. These are but a few of several variations which local communities can apply in accordance with their needs and resources.

4. COMMUNITY SELF-STUDIES

Recommendation IV. Enlistment of the Cooperation of Local Official and Voluntary Agencies Ministering to the Social, Educational, Medical, Health, Law Enforcement and Spiritual Needs of a Community to Collaborate in the Organization of Local Citizen's Committees to the End That Community Sources of Delinquency and Crime May Be Detected, and Reported, and Local, Means, Measures and Resources Employed for Its Prevention.

Supporting Data:

Community self-studies are one of the more effective instruments of community improvement. The commission is of the opinion that a community which takes a periodical inventory of its attributes, shortcomings, deleterious social situations, and educational, medical, welfare, economic, recreational, law enforcement, social and spiritual resources and needs is a healthier community. Through community self-organization can come many beneficial changes.

Because the need for accurate criminal statistics is fundamental to effective study, these local community groups should include a subcommittee which would be concerned with the development of local criminal statistics in accordance with a standard pattern.

The Board of Corrections and its member agencies should be prepared to assist local committees in studies of this nature. A concise, clear schedule of information and a pamphlet of methods of conducting such studies would greatly facilitate local efforts in this direction and encourage the formation of these local committees.

5. RECREATION AND LEISURE-TIME ACTIVITIES

Recommendation V. The Continuance and Further Expansion of State and Local Interests Which Promote the Wholesome Uses of Leisure Time Through Adult Education, Recreation, Cultural Advancement and Inter-Racial and Intercultural Harmony and Cooperation.

Supporting Data:

Leisure-time activities and recreation are essential to good mental health and delinquency prevention. Organized recreational activities for children help to meet their social needs and growth, and provide wholesome outlets for their energies. Many studies have shown that few delinquents had any previous contacts with organized recreational facilities.

The concept of leisure-time activities is broad, and embraces many fields including education, cultural advancement, hobby activities, athletics, and interracial and intercultural projects.

Specific recommendations for California include:

(a) Expansion of the activities of the California Recreation Commission which has greatly stimulated local recreational activities and planning throughout the State.

(b) Greater use of school facilities for recreational purposes during after-school hours.

(c) Use of traveling recreation specialists with mobile equipment who can organize activities for migrant workers and those in the more sparsely populated communities in the county.

(d) Community sponsored interracial and intercultural projects should be more extensively used to reflect the ethnic and cultural contributions of each group. Such activities can include international folk dance festivals, musical, dramatic, and literary programs and cooperation on community projects.

(e) Increased community awareness of their recreational needs, and present geographical distribution of recreational facilities so that comprehensive programs are made available to both children and adults.

6. SLUM CLEARANCE AND URBAN REDEVELOPMENT

Recommendation VI. Collaboration Between Federal, State and Local Agencies to the End That Slum Clearance May Be Accomplished in Critical Areas and That Urban Redevelopment May Be Advanced.

Supporting Data:

Slums are areas of social disorganization. Bad housing and congestion characterize areas with high rates of delinquency and crime. They are costly to governmental units because of their disproportionate law enforcement, fire and disease costs. A recent survey of two contrasting districts in San Francisco, as reported in the pamphlet "Blight and Taxes," showed that the slum area produced 4,771 arrests as compared to only 39 in the better neighborhood, despite the fact that the population of the two sections were almost the same.

Children growing up in slum areas develop disrespect for law enforcement, protective methods of shielding their offenders, callousness and bitterness toward accepted social standards of behavior.

The replacement of slums will not abolish all crime within the congested area, but it can greatly reduce the number of juvenile and adult offenders. Their abatement is necessary to improve standards of living, and to regroup the unwholesome alliances extent in slum areas against the police, and accepted standards of conduct.

7. REGULATION OF MIGRANT LABOR CAMPS

Recommendation VII. Continuous Study and Regulation of the Migrant Labor Situation in California, Especially in Two Aspects: (a) The Distribution of Labor in Order That Supply and Demand Can Be Better Regulated, Thus Mitigating Hardship; and (b) the Control and Supervision of Agricultural Labor Camps in Order That Standards of Sanitation, Housing Can Be Improved and That Exploitation by Labor Contractors Can Be Prevented.

Supporting Data:

Throughout the commission's public meetings in agricultural counties, and through its special investigations as reflected in the study, "California Agricultural Economy and the Problem of Crime," the plight of the migrant agricultural worker has been amply described. The unwholesome social and economic conditions which face itinerant laborers and their families are not conducive to the maintenance of acceptable standards of conduct.

In Fresno County, during the height of the cotton picking season, the town of Huron had unusually high incidences of crimes against person and property, according to Sheriff George Overholt. Sheriffs of Kern and Riverside Counties also have commented on the seriousness of the crime situation with respect to migrants.

To alleviate the critical conditions, necessary steps must be taken by local, state and federal jurisdictions. There is need for continuous study and regulation in order more equitably to distribute the supply and demand for migrant workers. California's seasonal crop production imposes long periods of unemployment on these workers at present. Additionally, local farm groups recruit workers in excess of their demand, thereby creating additional hardships for many families who have traveled long distances only to find agricultural work opportunities already filled.

The Division of Housing, Department of Industrial Relations, at present has too small a staff adequately to inspect all the labor camps within their jurisdictions. There is need for additional labor camp inspectors, to maintain periodic and frequent inspections to insure that minimum standards of sanitation, housing and decency are maintained.

In addition, many labor contractors, who have entered the field of recruitment of workers, have utilized their limited housing facilities to exploit the migrant worker. Testimony in Fresno County revealed this situation, and the consensus of opinion was that there was need of greater regulation of labor contractors. Increased regulation would not only help to prevent exploitation but also would insure better standards of housing and sanitation.

8. LOCAL RELIEF AND GENERAL ASSISTANCE

Recommendation VIII. Adoption of Legislation to Permit State Aid to the Counties for General Assistance in Order That Relief Standards May Have Some Semblance of Uniformity and That Citizens May Receive Equal Treatment Throughout the State. Such State Aid Would Also Permit a State Police With Respect to the Treatment of Transients and Nonresidents in Need or in Distress and for Agricultural Migrant Families Pending Their Resettlement Within the State and Would Make Possible More Satisfactory Educational, Spiritual, Recreational and Health Services to the End That Delinquent and Criminal Behavior Might Be Alleviated.

Supporting Data:

At present, counties independently administer their own programs for general assistance which vary considerably with the State in accordance with community resources, public attitudes to welfare and governmental policies. Only through the medium of state aid to the counties can any semblance of uniformity be achieved so that inequalities in residence requirements and welfare assistance can be resolved.

Families who suffer deprivation and economic disadvantages have difficulties in maintaining normal intra-family relationships. Stresses and strains work hardships on the children and foster growing insecurity, emotional maladjustment and frustrations. Children under these conditions are in danger of potential delinquency.

State aid to counties would also enable the adoption of a state policy with respect to general assistance to agricultural migrants and their families. The commission is of the opinion that the only basic solution to the problem of agricultural migrants is their resettlement within a community in California or elsewhere, where they can enjoy community status and have more satisfying educational, spiritual, recreational, and health services. To this end can delinquent and criminal behavior be alleviated.

The broad and diverse programs of the federally operated farm labor camp program were successful, though short-lived experiments in this field. For many of its residents, these federal camps afforded them their first opportunity to enjoy some semblance of stability and a feeling of belonging. Extensive health, medical, social, recreational and educational programs were provided, as well as self-government projects. These camps though only capable of housing some 20,000 residents performed the necessary functions of rehabilitation and reinforced their beliefs in the democratic spirit and institutions. The commission agrees wholeheartedly with the recommendation of the 1939 State Chamber of Commerce State-Wide Committee on the Migrant Problem which urged the continuation of the Farm Security Administration migratory labor camp progam.

9. ALCOHOLISM

Recommendation IX. The Extension and Broadening of Available Local, State and Federal Facilities for the Treatment of Alcoholics.

Supporting Data:

Although this commission did not make detailed studies of alcoholism, the Commission for the Study of Adult Corrections and Release Procedures has reported the extent of the problem of alcoholics in this State. The commission is in agreement with their recommendations for the amelioration and treatment of alcoholics, because such measures would help in the reduction of crime and delinquency.

PART IV

PROJECTS FOR THE BOARD OF CORRECTIONS

Within the limited time of the commission's tenure, it could not study and investigate all of the various pressing social problems in California which contribute to crime and delinquency. Therefore it has drafted a partial list of research projects which it desires to have the Board of Corrections consider for future study. It is recommended that the board utilize the research talents and resources within California universities and colleges, councils of social agencies, youth committees, coordinating councils as well as those of its own existing treatment and diagnostic facilities in the study of the following suggested topics:

1. *The Young Mexican and Young Negro and Crime*

This study should examine the ramifications of culture conflicts; the administration of justice with relation to these minority groups, economic opportunities and evidences of racial and cultural discrimination; the incidence of crime among young Negroes and Mexicans; and an evaluation of group work programs and projects for the redirection of their social and cultural ideals.

2. *An Examination of Parole Success as Related to Particular Causes of Crime*

This area of study is wide and important. There is need for additional extensive examination of parole violators, similar to that being conducted at Folsom State Prison, where possible causative factors are correlated with parole success or failure.

3. *The Effect of California's Increased Population on the Problems of Crime and Delinquency*

California's rapidly expanding population has caused many social and economic problems. Not only is there a high rate of mobility and its attendant restlessness and instability of the population, but also overcrowding of existing public and private facilities, culture conflicts, and the narrowing opportunities for employment. The effects of mass unemployment in a declining era of economic activity would be studied and calculated for its potential effects upon the growing crime problem.

4. *A Study to Determine an Effective Plan for Measuring Juvenile Delinquency*

At present our juvenile delinquency problem is measured almost exclusively by known delinquents. These represent but a small segment of delinquent youth in our state. There is further need for the derivation of an effective plan which will furnish a more complete and reliable measure of juvenile delinquency in California. If such a plan is formulated it will have wide application and usage throughout the Nation.

5. *An Examination of Department of Corrections' Guidance Center Records of 500 Inmates to Ascertain Crime Causation as Related to:*

a. Intelligence
b. Educational Achievement
c. Family Background
d. Emotional Stability
e. Vocational Achievement
f. Mobility
g. Religious Training
h. Military Record
i. Social and Cultural Background

This latter study should be made according to offense classifications, age groups and recidivism. Although our inmate population represents a small percentage of criminal activity in the State, they nevertheless offer fertile fields for research. It is possible through such research to evolve a better understanding of our more serious criminals.

Selected Bibliography to Parts I, II, III, and IV of Studies of Crime and Delinquency Causation

1. Lombroso, Cesare, *Crime, Its Causes and Remedies*, Boston, Little, Brown and Co., 1911.
2. Von Hentig, Hans, *Crime, Causes and Conditions*, New York, McGraw Hill, 1947.
3. Reckless, Walter C., *Criminal Behavior*, New York, McGraw Hill, 1940.
4. Sorokin, Pitrim A., *Social Mobility*, New York, Harper Bros., 1927.
5. Healy, William and Bronner, Augusta F., *New Light on Delinquency*, New Haven, Yale University Press, 1936.
6. Healy, William and Alexander, Franz, *Roots of Crime*, New York, A. A. Knopf, 1935.
7. Glueck, Sheldon and Glueck, Eleanor, *Criminal Careers in Retrospect*, New York, Commonwealth Fund, 1943.
   500 Criminal Careers, New York, A. A. Knopf, 1930.
   500 Delinquent Women, New York, A. A. Knopf, 1934.
   1,000 Juvenile Delinquents, Cambridge, Harvard University Press, 1934.
   Preventing Crimes: A Symposium, New York, McGraw Hill, 1936.
8. Shaw, Clifford R. and McKay, Henry D., "Report on Social Factors in Juvenile Delinquency," *National Commission on Law Observance*, Vol. II. Causes of Crime, 1932.
9. Reckless, Walter C., *The Etiology of Delinquent and Criminal Behavior*, New York, Social Science Research Council, Bulletin 50, 1943.
10. Cantor, Nathaniel, *Crime and Society*, New York, Holt, 1939.
11. Burt, Cyril, *The Young Delinquent*, London, University of London Press, 1938.
12. Ploscowe, Morris, "Some Causative Factors in Criminality," *National Commission on Law Observance*, Vol. I. Causes of Crime, 1931.
13. Merill, Francis E. and Elliot, Mabel A., *Social Disorganization*, New York, Harper Bros., 1941.
14. Thrasher, Frederic M., *The Gang*, Chicago, University of Chicago Press, 1927.
15. Tannenbaum, Frank, *Crime and the Community*, New York, Ginn, 1938.
16. Goring, Charles, *The English Convict*, London, 1913.
17. Wood, Arthur E. and Waite, John B., *Crime and Its Treatment*, New York, American Book Company, 1941.

Part V

REPORT A

California Agricultural Economy and the Problem of Crime

Prepared for the Commission on
Social and Economic Causes of Crime and Delinquency

By

I. J. SHAIN
Senior Sociologist

February 16, 1949

FOREWORD

Early in the tenure of the Commission for the Study of Social and Economic Causes of Crime and Delinquency, it had been noted by members that California's agricultural economy, distinct in its composite economic characteristics, and utilizing the services of approximately one-quarter million seasonal laborers annually, contained many risk factors usually found associated with criminal and delinquent behavior. Therefore, this study was undertaken to bring together both the data on the magnitude of the problem, and the social and economic conditions confronting migrant workers as they related to crime causation.

The commission wishes to gratefully acknowledge the efforts of Dr. Harry R. Wellman, Director, Giannini Foundation, University of California, and members of his staff who have reviewed the initial draft of this report, and whose helpful advice and suggestions have materially aided it.

CONTENTS

	Page
INTRODUCTION	25
SUMMARY	26
SECTION I—Characteristics of California's Agricultural Economy Resulting in Seasonal Labor Demand	27
A. Large-Scale Farming	27
B. Crop Specialization	28
C. Intensive Farming	29
D. High Capitalization of Farms and Industrialized Farming	30
E. Dependence Upon Seasonal Labor	30
F. Population Characteristics of California Agricultural Labor	31
SECTION II—Social Problems Related to California Agriculture	32
A. Unemployment and Low Annual Income	32
B. Poor Housing	33
C. Inadequate Health and Medical Facilities	34
D. Mobility	35
E. Educational Disadvantages	36
F. Community Rejection	37
G. Conclusions	38
H. Proposed Solutions	38
SELECTED READING LIST	39

INTRODUCTION

The Director of Corrections for the State of California in an address to the State Peace Officers' Association (in 1947) indicated that a study of migrant agricultural labor as related to crime and delinquency would be a fruitful avenue of approach for the Commission on Social and Economic Causes of Crime. He stated:

> "We have the itinerant laborer; we have the problem of our seasonal agricultural workers roaming up and down, with their families. When they get into trouble in one locality they are kicked out of town, and the next town does the same thing. And we do have a vast number of unattached people wandering about the State, many having families. You have all seen them, they take the family along in a pile of hay. Social conditions grow out of that which contribute to the juvenile problem. The question of itinerant labor has been studied by another agency but it was not related to the study of crime. So they have one possible approach." (California. Peace Officers' Association, *Proceedings of 27th Annual Convention*, Address to Panel on Crime Prevention by Richard A. McGee, 1947, p. 32.)

This study attempts to examine some of the more prominent social problems confronting migrants as they relate specifically to crime and delinquency causation. In so doing, aspects of the agricultural economy of this State which result in the need for seasonal workers are probed. Those characteristics include large-scale farming, crops specialization, intensive farming, and commercialization and industrialization of California agriculture.

In addition, short sections are devoted to the agricultural economy's dependence on seasonal labor, and an examination of population characteristics of California agricultural labor.

The nature of California's agricultural economy has been shaped by topography, soil, climate and the availability of abundant water supplies and labor. It is axiomatic that recommendations for the amelioration of the more pressing social problems engendered by the State's agricultural economy must pragmatically cope with the multiple factors which shaped it, and the contemporary attitudes and practices of the entrepreneurs in this important enterprise.

The report has been divided into two main sections. The first describes in concise terms those characteristics of the State's agricultural economy which result in a large seasonal labor demand. The second examines the social implications and problems of the migrant seasonal worker as they relate to crime and delinquency.

SUMMARY

1. California's demand for seasonal agricultural labor is large. Estimates for 1946 were 243,000 during the month of September. This demand stems from (a) large-scale farms, (b) crop specialization, and (c) intensive farming for a predominantly commercial market.

2. California has more large-scale farms than any other state. According to the 1939 census, California had 20.7% of all large-scale farms in the United States.

3. Crop specialization is more widely practiced in California than elsewhere in the United States.

4. Intensive farming, characterized by those crops which require relatively high labor and capital investment per acre, represented 77% of total farm production in California in 1939.

5. California's farms are capitalized at approximately three times higher than the average farm in the United States.

6. California agriculture is industrialized. It is commercial, often large-scale and uses a relatively small permanent labor force.

7. California's demand for seasonal labor varies considerably. It is high during the period from August through October, and approximately one-half as great from November through April.

8. Approximately half of California's agricultural labor population reside in urban centers, and less than half of those gainfully employed in agriculture are farm operators and their families.

9. There is no definitive data on the number of migrant laborers in California. An estimate of 150,000 men, women and children seems reasonable.

10. The principal problems of migrants as they relate to crime and delinquency causation are: (a) Low annual income and unemployment, (b) Poor low-grade housing, (c) In adequate health and medical care, (d) Mobility, (e) Community rejection and (f) Educational disadvantages for the children.

11. Solutions for the migrant problem include the extension and liberalization of welfare measures, resettlement in stable community life, and the increase in number of federal labor camps.

SECTION I

Characteristics of California Agricultural Economy Resulting in Seasonal Labor Demand

A. LARGE-SCALE FARMING

1. History

Large landholdings trace back many years in California. The Spanish staked large land grants upon first settling on the fertile lands of the State. Upon the acquisition of California by the United States, these grants were later recognized as valid claims. An American commission investigation, for example, confirmed 558 of these Spanish claims amounting to 8,850,143 acres, or an average of 15,501 acres each.[1]

The years following 1848 were a period of land speculation in which speculative profits were unparalleled. Paul Wallace Gates describing this era, wrote:

> "Following 1848, there came the rapid influx of settlers, which together with the large profits realized from the grazing industry in the interior valleys, created a land boom and led to extensive purchases.
>
> "With great areas of land in the San Joaquin and Sacramento Valleys open to cash purchases, the opportunity for speculative profits was unparalleled elsewhere; nor was the opportunity neglected. From 1862 to 1880, land sales and warrants and scrip entries in California were on an enormous scale surpassing all other states for the period and in some years comprising well over half of the sales of the entire country. In the single year ending June 30, 1869, 1,725,794 acres were sold in this State by the Federal Government, and for the entire period from 1862 to 1880 well over 7,000,000 acres were entered with cash warrants or scrip. It should also be remembered that the State of California which received 8,426,380 acres from the Federal Government was disposing of its most valuable holdings at this time." [2]

Land speculators found California fertile ground. Of particular interest is William C. Chapman, one of the greatest speculators in the early days of settlement who amassed over 1,000,000 acres between 1868 and 1871 with the aid of dummy entrymen, fraud, bribery, false swearing and forgery.[3] Other large land purchasers in the early period of settlement included E. H. Miller, Isaac Friedlander, and John W. Mitchell. The large landholdings amassed in the late 1800's in California are no longer operated as single farms. However, their early creation had several direct effects upon the future agricultural economy. Dr. Walter Goldschmidt enumerates these as follows:

> "*The first* * * * was to create a pattern or tradition of large landholdings and tenure relationships which has dominated California's agricultural scene. *The second* was to create a demand for cheap labor which, once supplied, came to be capitalized into the value of the land itself. *The third* was to make the land subject to speculation and speculative prices, and such prices have regularly constituted a burden upon the working farmer who attempted to wrest a livelihood from the soil.[4]

[1] Paul Wallace Gates, "Homestead Law in An Incongruous Land System" in *American Historical Review*, July 1936, 41:668.
[2] Gates, p. 668.
[3] Gates, *ibid.* p. 668.
[4] Walter Goldschmidt, *As You Sow*, 1947, p. 8.

2. What Is a Large-Scale Farm?

A large-scale farm has been described as one whose gross income equals $30,000 or more. This criterion was suggested after a detailed study by the Bureau of Agricultural Economics of the 1930 agricultural census.[5]

To arrive at this criterion, an evaluation of size of acreage, capital investment and labor required was made. Since none of these factors individually represented largeness, inasmuch as each of them varied considerably with specific crop and land use, it was concluded that "a fairly satisfactory single measure of size of business * * * is the product (gross income) resulting from combining land, capital and managerial ability."[6]

The study also enumerated minimum sizes of large-scale farms. Of particular interest to California are the following:

"*Fruit*—
Orchard-fruit farms: About 80 to 100 acres of bearing fruit.
Sub-tropical fruit farms: About 60 acres of bearing fruit.

Truck farms: 50 to 100 acres of truck crops harvested.

Specialty Crops—
Potato farms: 100 acres of potatoes harvested.
Bean farms: 200 acres of beans harvested.
Sugar beets: 100 acres of sugar beets harvested.

Dairy—
Farms selling milk wholesale: About 150 cows milked.

Stock Ranch—
Steer ranches: About 700 steers grazed.

Poultry—
Chicken farms producing eggs: About 4,000 chickens, three months old and over, and 8,000 raised during the year." [7]

Large-scale farms compare with average-size farms farms according to the following descriptions:

"Average large scale:
Truck farm is 11-22 times the average truck farm.
Fruit farm is 10-15 times the average fruit farm.
Cash-grain farm is 11-17 times the average cash-grain farm.
Crop-specialty farm is 13-31 times the average crop specialty farm.
Dairy farm is 11-20 times the average dairy farm.
Stock ranch is 10-11 times the average stock ranch.
Poultry farm is 10-24 times the average poultry farm." [8]

Although a gross farm income of $30,000 in 1948 would not be the equivalent to 1929 and 1939 dollar value, the descriptions of sizes of large-scale farms would still be valid. To arrive at a gross income figure representative

[5] U. S. Department of Commerce, Bureau of the Census, and Department of Agriculture, Bureau of Agricultural Economics, *Large-Scale Farming in the United States* by H. D. Jennings, 1933, p. 1.
[6] Jennings, et al., *ibid.* p. 1.
[7] Jennings, *ibid.* p. 4.
[8] Jennings, *ibid.*, p. 5.

of large-scale farms in 1948, it would be necessary to compare the total farm income of 1929 with that of 1948 and readjust the gross income accordingly.

3. How Does California Compare With the United States:

More than one-third (36.7%) of all large-scale farms in the United States were located in California in 1929. In that same census year California contained 30% of the Nation's large-scale cotton farms, although the State produced only 2% of the Nation's cotton crops.

California, in 1929, also had 30% of the large crop specialty farms, 40% of the large-scale dairy farms, 44% of the large-scale general farms, 52.9% of the large-scale poultry farms, 59.7% of the large-scale truck farms, and 60.1% of the large-scale fruit farms of the United States.[9]

Dr. Paul S. Taylor, noted agricultural economist, testifying before the Senate Committee on Education and Labor, emphasized the importance of these great enterprises. He commented:

> "The dominant position of these great enterprises (with gross income of $30,000 or more in 1929) in respect to both commercial production and employment of labor is indicated by the fact that although they numbered less than 3,000 or barely 2.1% of all farms in California (1929), they produced 28.5% of all California agricultural products by value and expended 34.6% of the cash paid to wage workers by all farms in the State. By contrasts in the North Central region, large-scale farms constituted less than $\frac{1}{10}$% of all farms, produced less than 2% of all products and spent hardly more than 2% of the total amount spent for farm labor. By each of these indices of relative importance, the large-scale enterprises of California dominate the agriculture of their State to an extent far greater than prevails in any section or division of the United States." (U. S. Senate, Committee on Education and Labor, Hearings Pursuant to S. Res. 266, 74th Congress, part 62, p. 22489, 1940.)

There were fewer large-scale farms in California in 1939 than in 1929. (See Table I.) Only 1,827 large-scale farms were reported in the 1940 census as compared to 2,892 in 1929. On a percentage basis, California's large-scale farms accounted for 20.7% of the Nation's total in 1939 as compared to 36.7% in 1929. The intervening decade, marked by serious depression, accounted in large part for the decline in number of California large-scale farms.

Although large-scale farms in California in 1939 constituted 2.17% of the total number of farms in the State, they produced 29.17% of the State's agricultural products, reflecting again the importance of California's large-scale farms in the agricultural economy of the State.

California is the Nation's foremost example of large-scale farming. It had a greater number of large-scale farms in 1940 than any other state, or geographical census region, with the exception of the Pacific region of which it is a part. In agricultural importance, California's large-scale farms played a more dominant role than in any other state. Large-scale farming is one of the distinguishing characteristics of California agriculture.

Of particular interest for purposes of this study, large-scale farms are significant because of their extensive

[9] Information summarized from testimony by Dr. Paul S. Taylor before U. S. Senate Committee on Education and Labor. *Hearings*, part 62, p. 22482, 1940.

Table I: LARGE-SCALE FARMS IN THE UNITED STATES, 1929 AND 1939
By Geographical Divisions

	1929		1939	
Region	*Number*	*Percent*	*Number*	*Percent*
United States	7,875	100.0	8,826	100.0
California	2,892	36.7	1,827	20.7
New England	329	4.2	357	4.0
Middle Atlantic	450	5.7	649	7.4
East North Central	238	3.0	810	9.2
West North Central	624	7.9	1,419	16.1
South Atlantic	670	8.6	690	7.8
East South Central	140	1.7	212	2.4
West South Central	962	12.3	1,292	14.6
Mountain	1,124	14.3	1,175	13.3
Pacific[1]	3,388	42.3	2,222	25.2

[1] Includes California.
Source: U. S. Bureau of Census, *Large-Scale Farming in U. S.* 1933. Figures for 1939 taken from U. S. Census of Agriculture, 1940.

demand for seasonal labor. Large-scale farms cannot steadily employ, on a year-round basis, the number of workers needed during the peak harvest season. Characteristically intensive, with concentration in specialty crops, they require additional seasonal workers. The labor demand is fulfilled to some extent by residents in nearby communities and supplemented by itinerant laborers who follow the crops.

B. CROP SPECIALIZATION

Crop specialization is more widely prevalent in California than in any other area in the Nation. Its practice derives in part from soil limitations, and more fundamentally from the desire of California farmers to concentrate on a special crop designed to bring forth high rates of return.

Since many California crops require large initial expenditures and specialized equipment, once established, they tend to be perpetuated. Such enterprises as tree fruits, vines and perennial plantings do not lend themselves to crop rotation, nor for the most part to general systems of farming.

Some of the reasons for crop specialization have been outlined in a University of California publication by L. A. Crawford and Edgar Hurd. They write:

> "Though the agriculture of California is greatly diversified, most individual farms are highly specialized. No other large area of the United States shows this tendency more strongly or exhibits so many and varied lines of specialization. This characteristic is partly a heritage from the days of bonanza farming, partly a result of the environmental conditions and types of crop prevailing. As each new enterprise was introduced, high prices generally prevailed for a period, returning exceptionally high incomes and thus providing distinct and immediate incentives to specialized production. Because special aptitudes, technical knowledge, and skill are usually required for the successful culture of the specialty crops, producers tend to become best fitted for and interested in one major line of production. The competitive nature of many of the enterprises adaptable to an area, together with the specialized types of equipment often required, inhibits the development of what would be viewed as well-balanced farming programs in many other sections of the country." [10]

[10] (Crawford and Hurd "Types of Farming in California Analyzed by Enterprises" U. C. College of Agriculture Bulletin No. 654 (1941) p. 3.)

Crop specialization in California is reflected by the 1940 Census of Agriculture. In the 1940 census report, farms were listed according to their major source of income. The crop which accounted for the largest return on an individual farm was classified as the major source of income. The same census classification also listed the value of other crops produced on such farms.

Of those California farms with fruits and nuts as the major source of income, 90.6 percent of the value of their farm products were in these specialized categories. (See Table II.)

Where California farms were specialized in vegetables, 85.8% of their total value of farm products in 1940 were in vegetable crops. By these indices, crop specialization in California is extremely high.

Table II: CALIFORNIA FARMS CLASSIFIED ACCORDING TO MAJOR SOURCE OF INCOME, 1940

A. Farms With Vegetables as the Major Source of Income

	No. of farms	*Value of products*	*Percent of total value*
All farm products	6,398	$38,625,696	100.0%
Field crops sold or traded	1,527	3,370,005	8.7
Vegetables harvested	6,398	33,158,110	85.8
Fruits and nuts	1,236	920,739	2.4

B. Farms With Fruits and Nuts as Major Source of Income

	No. of farms	*Value of products*	*Percent of total value*
All farm products	45,850	$129,237,986	100.0%
Field crops sold or traded	5,278	3,785,372	2.9
Vegetables harvested	1,610	1,258,851	1.0
Fruits and nuts	45,850	117,072,734	90.6

Source: 1940 Census of Agriculture.

The high degree of specialization in intensive crops, a characteristic which marks California agriculture apart from general systems of farming more prevalent in other parts of the country, is significant not only because it reflects the commercialization of most farms in the State, but also because of the enormous requirements for seasonal labor during the short periods of harvesting.

C. INTENSIVE FARMING

Another important characteristic of California agriculture which demands seasonal labor is intensive farming. Intensive farming is characterized by those crops which require relatively high capital and labor, or a steady supply of labor per acre. Fruits, nuts, vegetables, and cotton are prominent examples of intensive crops. Inasmuch as these categories of crops constitute a large part of the state's agriculture, California's farming is preponderantly intensive.

With the introduction of cultivation and irrigation, greater intensive use of land became evident. During the seventy-year period, 1869-1939, intensive farming, measured by value of products, increased from 6.6% to 77.3% of the State's total agricultural product. (See Table III.)

Table III: RELATIVE IMPORTANCE OF EXTENSIVE AND INTENSIVE AGRICULTURE IN CALIFORNIA, 1869-1939, MEASURED BY VALUE OF CROP [11]

	Value of crop		*Percent*	
Year	*Extensive*	*Intensive*	*Extensive*	*Intensive*
1869	$35,006,614	$2,444,259	93.4%	6.6%
1879	69,304,121	2,813,977	96.1	3.9
1889	62,603,721	--------	--	--
1899	53,111,131	40,441,677	56.7	43.3
1909	70,246,078	68,886,694	50.5	49.5
1919	204,692,315	346,249,327	36.6	63.4
1929	109,902,741	397,030,268	21.6	78.4
1939	73,370,292	249,195,812	22.7	77.3

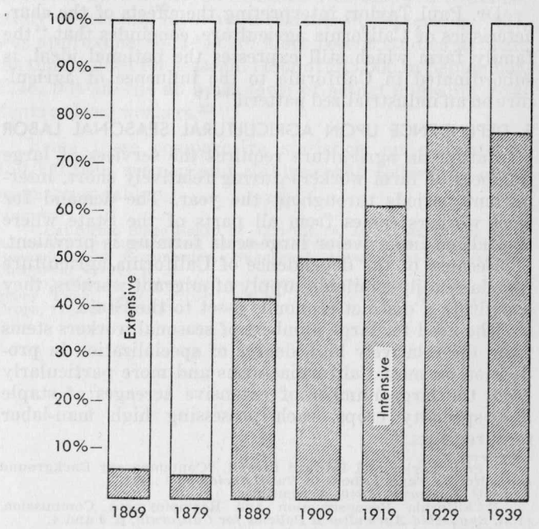
[11] Paul S. Taylor and Tom Vasey, "Historical Background of California Farm Labor" in *Rural Sociology* 1: 286 July 1936.

"Compiled from the United States Census and U.S.D.A. Statistical Bulletins 56-63. The distinction employed between 'Extensive' and 'Intensive' crops is based upon important differences in the amount of field labor required for crop production. *Extensive crops*: From 1899 to 1929 the census classification of 'cereals' and 'hay and forage' were combined. From 1869 to 1889 the total value of corn, wheat, oats, barley, rye, buckwheat, and hay was used, as given by the U.S.D.A. bulletins cited above. This crop classification is substantially the same as that employed from 1899 to 1929. *Intensive crops*: In 1909, 1919, 1929, and (1939) the following census crop classifications were combined: 'vegetables (including potatoes)', 'fruits and nuts', 'cotton (lint and seed)', 'hops' and 'sugar beets for sugar'. In 1899 the following classifications were combined: 'vegetables', 'small fruits', 'orchard products', 'grapes', 'beans', 'hops', and 'sugar beets for sugar', 'subtropical fruits', and 'nuts'.

"The value of intensive crops is not obtainable for 1889; 1869 and 1879 represent a combination of 'orchard products' and 'market garden'. The total value of all crops reported by the census is slightly above the combined value of extensive crops listed here. The discrepancy is not important for the purpose of this table. It arises partly from variations in census classification employed in different decades; in this table, forest and nursery products represent the chief omissions in recent decades." [12]

The relative importance of extensive and intensive agriculture in California, 1869 to 1939, as measured by value of products, is graphically presented in Chart I below:

Chart I: RELATIVE IMPORTANCE OF INTENSIVE AND EXTENSIVE AGRICULTURE IN CALIFORNIA, 1869-1939, MEASURED BY VALUE OF PRODUCTS



Source: Same as Table IV on page 30.

[12] Figures for 1939 were taken from the United States Census, 1940.

"Intensification of agriculture," writes Professor Paul Taylor, "constitutes the physical basis for the shift from dependence upon laborers of the familiar 'farm hand' type, to dependence upon unstable 'industrialized' masses of hand workers." [13]

D. HIGH CAPITALIZATION OF FARMS AND INDUSTRIALIZED FARMING

California farm property is highly capitalized. Illustrative of this is the value of the average California farm compared to the average farm in the United States. California average farms, in 1940, were worth $18,427 as compared to $6,767 for farms in the Nation. By this index, California farms are capitalized approximately three times as high as the Nation's average. For further comparison, the East North Central region (Wisconsin, Illinois, Michigan, Ohio, and Indiana) had average farm values of $8,887, less than one-half of California farms.[14]

California farming has been aptly described as the "agricultural industry." In a report jointly prepared by the California State Board of Agriculture, Joint Legislative Interim Committee on Agriculture and Livestock Problems, and the State Reconstruction and Reemployment Commission in 1946, this fact is asserted. The report states: "(California agriculture) is, in the first instance, commercial, almost all its products being directed towards domestic and foreign markets. In the second place, it is highly diversified, as indicated by the fact that more than 200 different products of commercial importance are produced * * * and the production is accomplished by no less than 118 distinct types of farming.[15]

"The contemporary agricultural structure * * * (is) composed of enterprises devoted almost exclusively to commercial markets, often large-scale and semi-industrialized; * * * as using a relatively small permanent labor force of operators, managers and hired laborers, and as drawing upon a somewhat larger pool of casual seasonal laborers for manual operations." [16]

Dr. Paul Taylor, interpreting the effects of the characteristics of California agriculture, concludes that "the family farm which still expresses the national ideal, is subordinated in California to the influence of agriculture on an industrialized pattern." [17]

E. DEPENDENCE UPON AGRICULTURAL SEASONAL LABOR

California agriculture requires the services of large numbers of farm workers during relatively short, intermittent periods throughout the year. The demand for such workers comes from all parts of the State where specialized intensive or large-scale farming is prevalent.

Because of the dependence of California agriculture upon a readily available supply of migrant workers, they constitute a distinct economic asset to the State.

The need for large numbers of seasonal workers stems from the relatively high degree of specialization in production on most California farms and more particularly from the large number of extensive acreages of staple and specialty crops, each possessing high man-labor requirements.[18]

[13] Paul Taylor and Edward Rowell, "Contemporary Background of California Farm Labor" in *Rural Sociology* 1: 401.
[14] U. S. Census, 1940, Agriculture.
[15] California Reconstruction and Reemployment Commission, et al. *Suggested Agricultural Policies for California*, p. 3 and 4.
[16] *Ibid.*, p. 4.
[17] Taylor and Vasey, "Contemporary Background of California Farm Labor" in *Rural Sociology* 1: 419.
[18] R. L. Adams, *Seasonal Labor Requirements for California Crops* Bulletin No. 623, July 1939, U. C. College of Agriculture reports, p. 3.

The high seasonality of California crops primarily creates a large demand for labor over relatively short periods of time in different sections of the State.

California's need for seasonal agricultural laborers falls into three major periods. From November to April the demand is relatively low. During May, June and July the need increases to an intermediate level, while the greatest labor requirement occurs during the months of August through October.

Significant increases in the number of workers required have been evident since 1935. Table IV below, compares the seasonal needs for agricultural labor between 1935 and 1946.

Table IV: COMPARISON OF SEASONAL NEED FOR AGRICULTURAL LABOR, 1935 AND 1946

Period	Average number of workers required 1935	1946
November through April	59,000	100,133
May through July	100,000	143,588
August through October	134,000	200,588

Source: 1935 data summarized from R. L. Adams, *Seasonal Labor Requirements for California Crops*, Bulletin No. 623, July 1939, U. C. College of Agriculture, p. 6. 1946 data summarized from California. University Agricultural Extension Service, *Labor Requirements for California Crops* (1947) p. 1.

The average needs for agricultural workers, during the low, intermediate, and high periods of labor demand (as indicated in Table IV above) have increased over 50% in the decade from 1935 to 1946. Currently, the period from August through October, requires twice the labor demand for California crops, as the corresponding low period November through April. The direct problem resulting from varied seasonal demand for labor is one of unemployment during the slack agricultural seasons.

Another indication of the varied farm labor requirements in California is demonstrated in Table V, which cites the average number of workers required by month. As compared to a 1946 demand for 229,828 workers in September, only 71,382 workers were required during the month of March in that same year.

Table V: CALIFORNIA FARM LABOR REQUIREMENTS BY MONTH, 1946

Month	Average number of workers required	Percentage of need compared to September
January	113,505	49.38%
February	102,178	44.45%
March	71,382	31.05%
April	87,778	38.19%
May	136,198	59.26%
June	140,500	61.13%
July	154,065	67.03%
August	176,330	76.72%
September	229,828	100.00%
October	195,606	85.10%
November	121,218	52.74%
December	104,735	45.57%

Source: California. University Agricultural Extension Service, *Labor Requirements for California Crops* (1946) p. 1.

This section has established two facts. First, California farms require the services of large numbers of seasonal laborers to help harvest the crops. Second, the demand for farm laborers varies considerably with the season and month. Because of the differences in monthly demand, the State is acutely faced with a problem of unemployment during the slack agricultural periods. This affects the welfare and well-being of countless thousands of migrant workers on whom the harvesting of crops depend. It is a problem of no small magnitude.

F. POPULATION CHARACTERISTICS OF CALIFORNIA AGRICULTURAL LABOR

California's agricultural labor population is unique in its characteristics. Fully half the agricultural laborers do not live on farms—they are urban residents. Less than half of California's gainfully employed in agriculture are farm operators and their families. These facts are evident in the two tables listed below.

Table VIa: GAINFUL WORKERS IN AGRICULTURE BY PLACE OF RESIDENCE IN CALIFORNIA, April 1, 1930

	Total population			Urban population		Rural farm population		Rural nonfarm population	
	Total	M	F	M	F	M	F	M	F
Farmers (owners and tenants)	126,399	119,822	6,577	16,629	975	96,157	5,262	7,036	340
Farm managers and foremen	8,871	8,550	321	1,649	76	5,692	216	1,214	29
Farm laborers	195,390	190,626	4,764	53,245	1,179	85,565	2,556	51,816	1,029
Wage earners	188,678	184,824	3,854	52,989	1,000	80,226	1,874	51,609	980
Unpaid family workers	6,712	5,802	910	265	179	5,339	682	207	49

Source: George M. Peterson, "Composition and Characteristics of the Agricultural Population in California," Gainful Workers in Agriculture by Place of Residence, p. 15 (1939).

Table VIb: GAINFUL WORKERS IN AGRICULTURE BY PLACE OF RESIDENCE IN CALIFORNIA, 1940

	Total population			Urban population		Rural farm population		Rural nonfarm population	
	Total	M	F	M	F	M	F	M	F
Farmers and managers	102,896	97,829	5,067	9,809	624	82,783	4,190	5,237	253
Farm laborers and unpaid and foremen	185,912	176,672	9,240	42,130	2,249	87,979	4,813	46,563	2,178
Unpaid family workers	12,328	8,446	3,882	623	709	8,166	2,985	304	906
Farm laborers and foremen	173,594	168,226	5,358	41,507	2,540	79,793	1,828	46,259	1,272

Source: *U. S. Census, 1940*, Population Vol. III, The Labor Force, pp. 216, 217, 218, 219.

In addition to residence characteristics, only a small segment of those gainfully employed in California agriculture are year-round employees. The 1940 census reveals that approximately 32,847 were hired year round. (Footnote: A reliable index of year-round employees is indicated by the census enumeration of those "hired by the month." This category would include the majority of year-round permanent employees.) Of a total of 210,831 hired agricultural laborers in September, 1940, 81,741 were hired by the day or week, and 96,142 were contract or piecework laborers.

More recent estimates are those of Dr. C. B. Hutchinson and Dorothy S. Thomas, which appeared in the state publication, "Suggested Agricultural Policies for California." The section on population of that report suggests that "the permanent labor force engaged in agriculture in California was small absolutely as well as relatively—around 100,000 farmers and farm managers, 10,000 or so members of their families who worked without cash remuneration, and approximately 70,000 hired laborers." In addition, the report states, "there was a casual labor force of seasonal workers, which, in the early spring was about equal to the number of permanent hired laborers, but in the autumn months was three or four times as numerous." [19]

The exact number of migratory seasonal laborers in California is unknown. Estimates have been made in various studies, but no definite data are available. Furthermore, the number probably varies from year to year, depending upon employment opportunities in the place of residence, labor demand, wage rates and other pertinent factors.

Despite the absence of conclusive data, reliable estimates have been made. A 1935 study estimated that 49,500 migrants were employed in October of that year. Adams' study of seasonal labor requirements in September, 1937, was approximately 145,000. More recent studies indicate maximum need for seasonal labor at 243,000 in September, 1946, but affords no breakdown of actual migrants, residents or local workers.[20]

From these comparative statistics, an estimate of 150,000 men, women and children who follow the crops seems reasonable.

[19] California State Board of Agriculture, Joint Legislative Committee on Agriculture and Livestock Problems, Reconstruction and Reemployment Commission, *Suggested Agricultural Policies for California* (1946) p. 3.
[20] California. University Agricultural Extension Service. Emergency Farm Labor Project, *Labor Requirements for California Crops, 1946* p. 2 (1946).

SECTION II

Social Problems Related to California's Agricultural Economy

Problems of Migrant Laborers

California's agricultural economy, which uses the services of approximately 150,000 migrant laborers annually, has numerous and specific social problems related to it. The plight of the itinerant laborer and his family, confronted by community rejection, inadequate income, poor low-grade housing, educational disadvantages, and inadequate health and medical facilities, is the most striking. The magnitude of the problem is reflected by the size of this group and constitutes a serious public responsibility.

Professor M. R. Benedict, University of California agricultural economist, outlines some typical migrant problems in the recent book, "California Agriculture." He states that:

> "Many acute social problems result from the situation now existing. Workers who follow the crops have little chance of establishing homes or advancing in the social scale. Even were incomes adequate, the purchase or rental of a satisfactory year-round home requires stability of residence in a given community and reasonable continuity of employment. If stability could be achieved, these groups could have a more satisfying social and community life, with better opportunities for education and progress. As yet little has been done. The state and federal governments have sought to help them through special traveling schools, health facilities, publicly constructed camps, inspection of privately owned camps, and extensive contributions for relief. In the main, however, these are palliative measures rather than fundamental correctives. The seasonal farm workers, more numerous than the farm operators, continue to present a major social problem."[1]

Although several important studies and Congressional investigations have been made of the handicapped social conditions of the itinerant agricultural laborer, none have been correlated with the problems of crime and delinquency. This report attempts such study.

The utter paucity of reliable and adequate statistical data, either of the incidence of crime and delinquency of migrant workers and their families, or parallel statistics among the resident farm population is a striking and obvious difficulty in undertaking such study. Despite the absence of definite data, prominent examples of law enforcement problems with migrants are suggested in agricultural counties. For example, the Sheriff of Fresno County, George Overholt, expressed concern over the abnormal incidence of crime in Huron, a west side community with a population principally composed of migrants during the cotton picking season. Judge Arthur Shepard, Superior Court, Fresno County, related to the commission that ninety percent of those involved in homicide, robbery, rape and aggravated assault cases were residents in California since 1939. The situation is not atypical. Similar comments were made by the sheriffs of Kern and Riverside Counties.

[1] M. R. Benedict, "The Economic and Social Structure of California Agriculture" in *California Agriculture* edited by C. B. Hutchinson (1946) p. 405.

The emphasis of this section has been placed on an examination of environmental risk factors and social hazards confronting the seasonal worker and his family.

This paper does not support the contention that the mere existence of deleterious environmental conditions dictates the inevitability of subsequent criminal and delinquent behavior. Previous studies of crime causation, especially those undertaken by the Gluecks, have emphasized that the majority of those who live under even the most depressing environments manage to avoid criminal and delinquent behavior. However, these findings do not exclude the equally known fact that obstacles to a well balanced social adjustment, known as "risk factors," have an undue influence in specific histories of delinquents and criminals.

What appears to be the most sensible and fruitful approach to the study of crime causation has been set forth by Dr. Sheldon Glueck. He suggests: "The practical student of causation * * * must consciously focus his attention on discovering the exact operative connections of these (risk) factors with the offender's self-expression through misbehavior."[2]

In the following pages, several of the social disadvantages confronting the seasonal farm worker are examined in greater detail. They are, in the order of their appearance:

1. Low annual income and unemployment.
2. Poor housing.
3. Inadequate health and medical care.
4. Mobility.
5. Educational disadvantages.
6. Community rejection.

These characteristics are correlated with their individual and composite effects upon crime and delinquency.

A. UNEMPLOYMENT AND LOW ANNUAL INCOME

The State's highly seasonal agricultural economy imposes upon migrant laborers long periods of unemployment during a major part of the year. To illustrate, the peak seasonal period in 1946, August through October, required twice the number of workers as the corresponding low period of labor demand, November through April. Even if wages were extraordinarly high during this short peak season, the accumulated income could not adequately support a normal family unit of four on a year-round basis. Actual current wages for the year 1948 range from 60¢ to $1 per hour depending upon the specific crop.[3]

One of the major conclusions of the study of migrant laborers by the Federal Interagency Committee on Migrant Labor was the following:

> "Migrant workers generally have insufficient employment to furnish them adequate annual incomes, even though some of the receive fairly high wages during periods when they are employed."[4]

This conclusion has been emphasized in other studies of annual incomes of migrant laborers.

[2] Sheldon Glueck, "Crime Causation" in National Probation Association, Yearbook, 1941, *Probation and Parole Progress* (1941) p. 100.
[3] California Department of Employment, *California Weekly Farm Labor Report*, September 1, 1948-November 3, 1948 (1948).
[4] U. S. Federal Interagency Committee on Migrant Labor, *Migrant Labor—A Human Problem* (1947) p. 20.

For example, the Senate Committee on Education and Labor, (the LaFollette Committee) commented in its 1942 report:

> "An analysis of the substantive plight of California's agricultural laborers discloses an inadequate annual income for many workers and their families. This is due to substantial periods of unemployment in each year and low levels of earnings during the periods of employment."[5]

The same report suggests that additional relief funds are needed for this category of the population.

> "Supplementary funds from public relief sources, dispensed on a broad scale, are necessary to maintain even a subsistence level for a great majority of them. Many are not eligible; relief funds are not always adequate. The natural result of low level of income and considerable mobility and uncertainty of employment is bad housing and living conditions."[6]

Professor R. L. Adams, University of California, discussed the same general problem. In an article prepared for the "Journal of Farm Economics," he stated:

> "A vast horde of temporary workers, numbering tens of thousands of individuals, creates problems of no small magnitude. Much of the work piles up at certain seasons so that year-round employment is impossible for the great majority of those workers * * * an ever-present problem is found in the lack of opportunity for any large proportion to earn enough * * * to supply them with the bare necessities of life."[7]

And in a subsequent article, Professor Adams comments:

> "These people constitute a homeless and landless group, forced by circumstances to move with the seasons from one locality to another in search of employment; earning possibly fair to good wages while work is available but, with the exception of the more able and more fortunate, unable to obtain sufficient employment over the course of the year to support themselves and their families adequately."[8]

The U. S. Department of Agriculture prepared a bulletin on the wages of agricultural labor in the United States. The report indicated that in 1944, during the war, the average earnings of hired farm laborers in California were 77 cents per hour. Despite the fact that this hourly rate represented a considerable increase over that paid in 1941, it still falls far below minimum standards for a decent income.[9]

From 1939 to 1943, the composite monthly farm wage rose from $54.81 to $126, representing an increase of 130%.[10] It is in this light that a previous study of annual family income, conducted by the U. S. Department of Agriculture's Bureau of Agricultural Economics in 1939 assumes added current significance. The report, briefly summarized, indicated these findings:

> "The average annual 1938 family incomes of 360 migrant families relocated in California was $758. The most typical income was about $625. Twenty-one percent received less than $450, and only 24% received over $900. To readjust family earnings in agricultural pursuits to the 1943 level would still reveal an inadequate annual income. These are the realities of current agricultural problems in terms of employment and inadequate annual earnings."[11]

Previous studies of crime causation indicated that an abnormally high percentage of the criminal and delinquent resident prison population had family histories in which there was marked poverty, unemployment and substandards of living.[12]

These findings do not necessarily establish a definite causal relationship between unemployment, poverty and crime and delinquency. They do not take into consideration the effects of other aspects of the individual's experiences. But it does raise a significant point. For if the histories of those persons institutionalized in our state and federal prisons reveal certain common social disadvantages, then we can logically conclude that these are symptoms which may influence delinquency and criminality. A more detailed study of the individual's experiences however, may unearth the "exact operative connections" between the individual's violations of the commonly accepted laws and his environment.

Unemployment and inadequate annual income among migrant families are not isolated characteristics. They are usually accompanied by other social disadvantages which include the following: Poor housing, inadequate health and medical care, malnutrition, breakdown of primary controls, and inadequate educational opportunities. Compositely, these social disadvantages create an almost overwhelmingly deleterious environment which helps to induce juvenile and adult behavior problems growing out of insecurity and frustration. It is in this light that unemployment, low annual income and its accompanying social characteristics influence delinquency and criminality.

B. POOR HOUSING

The housing of agricultural workers has long been recognized as of deplorably low level. The ill-famed squatters' camps and shacktowns, which appeared in large numbers during the period of great influx into the State during the late thirties are still extant. For example, in a report to the Governor's Council, June, 1946, the Division of Housing, Department of Industrial Relations, revealed this typical situation.

> "Conditions similar to those of 1935 exist today in Kern County where a tremendous influx of migratory labor is arriving to work in the potato fields. Many of the growers can make no provisions whatever for housing their crews, who, therefore, are camping in backyards, on roadsides and on ditch banks with the most meager type of sanitary conveniences."[13]

[5] U. S. Senate, Committee on Education and Labor, Report, Part III (1942), p. 156.
[6] *Ibid.*, p. 156.
[7] R. L. Adams, "Farm Labor" in *Journal of Farm Economics* 19:918 (1937).
[8] California. University College of Agriculture, Bulletin No. 623, *Seasonal Labor Requirements for California Crops*, by R. L. Adams (1939), p. 3.
[9] U. S. Department of Agriculture, Technical Bulletin No. 895, *Wages of Agricultural Labor in the United States*, by Louis J. Ducoff (1945), p. 83.
[10] *Ibid.*, p. 54.
[11] U. S. House of Representatives, Select Committee to Investigate the Interstate Migration of Destitute Citizens, pursuant to H. R. 63 and 491, "Employment of Migrants as Hired Laborers in Western Agriculture," by Varden Fuller, Hearings, p. 2370 (1941).
[12] See Mary Van Kleeck, "Work and Law Observance in the History of Men in Sing Sing Prison," in Wickersham Commission report, Volume I, and Emma A. Winslow's study in same volume.
[13] California. Department of Industrial Relations, Division of Housing, *Report to Governor's Council*, June, 1946, p. 9.

This is no isolated example. The *San Francisco News* reported a similar situation in Santa Clara County in its July 8, 1947, edition.

> "Last August (1946), Dr. Turner's staff (county health official) found 580 trailers, tents, shacks and similar makeshift units scattered throughout the county. Many of them were without even rudimentary sanitary facilities." [14]

And the *Fresno Bee*, May 2, 1947, reported the eviction of 300 families, 1,500 persons from squatters' camps in the Edison District, Kern County, because of the outbreak of dysentery and one reported case of diphtheria among the migrants.

Since no conclusive studies have been undertaken, it is difficult to estimate the exact number of persons in the State confronted with such primitive conditions. Nonetheless, there are evidences that the problem is a real and active one.

In addition to these temporary camps, many of which annually reappear in different agricultural sections of the State during harvest time, the agricultural migrants utilize low-quality tourist quarters, labor camps furnished by growers, and twenty-one camps with a capacity of 20,000, formerly operated by the Federal Security Administration. Funds for the Federal Security Administration camps were terminated in December 1947, and since then have been operated by private growers on interim leases from the Department of Agriculture.

The growers' camps are quite variable in quality and are generally inadequate. They were built originally for temporary occupation during the harvest season and not for permanent use. In 1939, 29% of the camps furnished by growers were rated poor, while only 34% of them were in full compliance with state regulations.

In the more recent 1945-46 report of the Division of Housing, Department of Industrial Relations, of 5,703 inspections representing 3,910 labor camps, 1,777 were rated good, 2,352 fair, and 381 bad.[15]

An encouraging note in more recent years has been the increased grower building of labor camps for migrant workers. The detailed amount of such new facilities is not known however.

The Joint Senate-Assembly Committee on the Housing Problem in its 1947 report made brief but significant mention of California rural housing needs. It declared:

> "Not included in the 743,568 units required to meet the minimum (urban) housing needs of California are additional units required in rural areas to house migratory farm workers and families desiring to build permanent residences on their own farms. Although no testimony as to the number of units needed to house farmers and their families or to shelter migratory workers was given, the representatives of farm organizations were emphatic in declaring the need for additional housing." [16]

The recent publication of the Federal Interagency Committee on Migrant Labor sums up the migrant housing predicament in the following passage:

> "Migrants have little choice in the matter of housing. They must accept whatever shelter is available in the area in which they seek employment. Tents, makeshift shelters, broken-down one-room cabins, converted chicken coops, deserted farm houses, long-rows of unpainted one-room cabins, old barns and other farm buildings provide 'homes' for thousands of migrant workers. In most instances, the occupants eat and sleep in one room—cook their meals either in this room or in a nearby cookshack and sleep on bunks or on straw thrown upon the floor. Overcrowding and unsanitary conditions add to the health hazards, endangering both the migrant workers themselves and the communities in which these conditions are permitted to exist.
>
> "Sporadic work and substandard living conditions make it imperative that public interest be aroused so that remedies can be applied. Housing which meets minimum standards of sanitation and decency is one the basic needs of migrant workers." [17]

The lack of proper housing facilities, dwellings in rural slums, and the incidence of disease from contamination and inadequate sanitation facilities produce serious social and medical problems. The effects of deplorable living conditions upon crime are difficult to measure. However, normal social ideals do deteriorate in an unfavorable, crowded, repressive environment. Codes of behavior relax under the impact of social disintegration in these shacktowns, tourist camps, and river bank jungles. Petty theft, pilfering and sex abuses increase in numbers.

Observers of migrant dwellings in tourist camps and shacktowns are cognizant of their deleterious social effects. Dr. L. I. Hewes, a student of this problem, comments that the search for employment which brings together large numbers of people in one camp creates many problems. He writes:

> "In addition to the problems of sanitation, laundry, and contamination, these camps have no machinery for maintaining standards of conduct, consequently *problems of protection, mores, and delinquency develop.*" [18]

Migrant agricultural workers' housing, characterized by sanitary deficiencies, lack of privacy, contamination and other inadequacies, clearly focalizes the problems of its occupants. This situation makes for unsatisfactory human relationships, frustration and emotional insecurity which lie at the base of delinquency causation.[19] Under these circumstances it is difficult to conceive how the migrant and his family can avoid trespassing the restrictions of society which comprise our laws.

C. INADEQUATE MEDICAL FACILITIES

The inability to procure adequate medical service and ill health confront the migrant and his family. This fact is emphasized in the 1940 report to the President, prepared by the Interdepartmental Committee to Coordinate Health and Welfare Activities. The report states:

> "Migratory workers and their families have more illnesses and less medical care than the rest of the community. The health hazards to which they are exposed are a menace not only to themselves and to their children, but also to the people and families with whom they come in contact all along their line of march. The human waste resulting from this lack of health protection can and must be stopped." [20]

Similar comments appear in the more recent report of the Federal Interagency Committee on Migrant Labor. Citing the handicapped conditions confronting migrant laborers in their quest for decent health, the report notes the following:

> "Constant exposure to changing climatic conditions, unsanitary and congested housing quarters in poor surroundings often with poor drainage, questionable drinking water, inadequate ventilation, lack of heat, use of the same room for cooking and sleeping quarters, lack of screening, absence of receptacles for garbage disposal, and filthy privies all contribute toward endangering the health of migrant workers. Nevertheless, the ordinary health services provided by communities for their residents are seldom available to migrants. Only when epidemics of contagious diseases endanger the health of the community as a whole do many of these workers receive the medical care required." [21]

United States Public Health Service surveys indicate that members of migrant families suffer from disabling illnesses at a far higher rate than do members of a stable population. Malnutrition, for example, is more frequent among the children of migrants. One such survey indicated that disabling illnesses are 74 percent higher among migrants than in settled families.

The higher rates of disabling illnesses are attributed to:

> "The disproportionate number of accidents, communicable diseases, and puerperal conditions." [22]

The aforementioned report indicates that children are seriously affected mentally and physically "as a result of inadequate diet, irregular sleep, and the insecurity of their daily existence." [23]

Dr. Omer Mills, Farm Security Administration, stated in an address to the Health Officers Section of the 1939 California League of Municipalities annual meeting, that four main types of health problems arise from the migrants' living conditions. They were: (1) The easy and rapid spread of communicable diseases; (2) the prevalence of sickness caused by unsanitary living conditions; (3) the high incidence of diseases traceable to malnutrition; and (4) a general neglect of health due to poverty and to ineligibility for state and county aid.*

In 1936 it was estimated that approximately 90 percent of the reported cases of typhoid fever in California occurred among rural migrants.

The following year, the State Department of Health reported 84 cases of tuberculosis among 70 families in a survey of migrant camps at Shafter, Wasco, and Hoover.[24]

Of added interest is the following report of the health of 1,000 migrant children, surveyed in 1936-1937, as compared to that of resident children.

Table VII: COMPARISON OF MIGRATORY AND RESIDENT AMERICAN CHILDREN WITH MEDICAL AND HYGIENIC DEFECTS, BY AGE GROUPS

	Age group				
	0-1 Years	*1-2 Years*	*2-6 Years*	*6 Years and over*	*Total*
Resident ____	31.1%	50.4%	73.3%	65.7%	60.5%
Migratory ____	56.8%	79.9%	85.4%	91.3%	83.6%

Source: California Department of Public Health, *Report of Migratory Demonstration, July 1936 to June 1937—Health of 1,000 Children* by Anita Faverman (1937) p. 20).

The statistical evidence of poor health and inadequate medical care, compiled in previous studies, is overwhelming. The tragic aspect of this fact is that "diseases and poor health traceable to unsanitary living conditions and to malnutrition are definitely related to economic status. This is particularly true of workers in California's industrialized agriculture." [25]

Ill health, added to the other burdens of the migrant's life, accentuate the difficulties of making normal adjustments. These difficulties not only create social instability, but also increase the likelihood of compensatory behavior in delinquent and criminal activities. The probability of diverting to criminal and delinquent pursuits, under these circumstances, cannot be dismissed. Ill health is another important risk factor in crime causation.

D. MOBILITY

The paths of agricultural migrants in California are far flung and extend from one end of the State to the other. As various crops mature in different parts of the State, the migrant packs his family up and drives off to the place where work may be available. There are no guarantees, however, that when the worker and his family arrive at the next town hiring may not have already taken place and jobs will have been filled.

The patterns of agricultural labor migration in California have been studied. They are correlated with peak seasonal labor requirements. In this State the peak seasonal demands occur in Southern California in February and March, and again in September and October. In the San Joaquin Valley peak demands occur in August, September, and October. Different localities within major areas have varying labor demands. "The result," assert Taylor and Rowell, "is a continual movement by laborers' families in the endeavor to dovetail brief periods of employment." [26]

Actual routes followed by migrants are almost infinite in number. The agricultural labor market is highly disorganized and movements are made according to the individual migrant's own information as to location of probable employment. Earning capacity differences, some of which require more skill and dexterity than others, similarly affect specific routes. A third factor, and perhaps of greatest importance, is whether a specific crop affords

---

[14] *San Francisco News*, July 8, 1947.
[15] California Department of Industrial Relations, Division of Housing, *Biennial Report 1945-1946* (1946) p. 47.
[16] California Legislature. Joint Senate-Assembly Committee on the Housing Problem, *Report* (1947) p. 19.
[17] U. S. Federal Interagency Committee on Migratory Labor, *Migrant Labor—A Human Problem* (1947) p. 20.
[18] Laurence I. Hewes, *Some Migratory Problems in California's Specialized Agriculture*, unpublished Ph.D. thesis, George Washington University (1945) p. 92.
[19] Healy and Bronner, *New Light on Delinquency* (1936) p. 301.
[20] U. S. Interdepartmental Committee to Coordinate Health and Welfare Activities, *Migratory Labor* (1940) p. 8.
[21] U. S. Federal Interagency Committee on Migrant Labor, *Migrant Labor—A Human Problem* (1947) pp. 28, 29.
[22] U. S. Interdepartmental Committee to Coordinate Health and Welfare Activities, *Migratory Labor* (1940) p. 9.
[23] *Ibid.* p. 9.
* Summarized from California University Bureau of Public Administration, *Transients and Migrants* by Victor Jones, 1939 Legislative Problems Series Number 4 (1939) p. 45.
[24] California Department of Health, *Weekly Bulletin* September 24, 1938, p. 139.
[25] California University Bureau of Public Administration, *Transients and Migrants* by Victor Jones (1939) p. 47.
[26] Paul S. Taylor and Edward J. Rowell, "Patterns of Agricultural Labor Migration Within California" in *Monthly Labor Review*, November, 1938, p. 2.

an opportunity for the employment of men, women, and children.

Here is an example of what a well-filled year may provide in terms of travel for the migrant family. As outlined by Taylor and Rowell, it is as follows:

> "A well-filled year might include picking peas in Imperial Valley in February and March, at Nipomo on the central coast in April, and in Alameda or Yolo County in May; picking apricots in Contra Costa County in June, and in Santa Clara County in July; picking grapes in Fresno County in August and September, and peas in October; picking peas in Imperial Valley in November and December, and awaiting the maturity of the next pea crop in February. Some migrants find alternative spring employment in the citrus belt of Tulare County. For other migrants the year's work goes somewhat as follows: Pea picking in Imperial Valley in February and March, potato picking or cotton chopping in Kern County in May and June, apricot picking in Kings County in July, grape picking in Fresno County in August, and cotton picking for the rest of the year in Kern County." [27]

Frequent mobility particularly affects the children. The Federal Interagency Committee report indicates that serious physical and mental handicaps result.

> "Frequent movement from place to place makes (the migrant's children) feel insecure and unwanted. Left by themselves day after day, these children of pre-school age often develop serious physical and mental handicaps." [28]

Mobility is one of the risk factors in crime and delinquency causation. It particularly affects the individuals concerned by producing an unstable, insecure feeling resulting from the demands of constant readjustment. It furthermore diminishes the influence of existing rules of behavior upon individuals. As expressed by Dr. Elliott and Dr. Merrill in their book *Social Disorganization*, mobility entails these handicaps:

> "A life of extreme mobility almost completely deprives the individual of the vital and fructifying contacts with other persons which are so essential to the development and maintenance of normal personality.
>
> "The social attitudes of right and wrong, built up so laboriously through years of intimate contact with other members of the primary group, become relatively meaningless in a strange and constantly changing environment." [29]

E. EDUCATIONAL DISADVANTAGES

The children of agricultural migrant workers suffer educational disadvantages. Since the agricultural worker must constantly move in search of employment, the opportunity for children of school age to enroll in any one school for a sufficient period of time is extremely limited. Where enrollment takes place attendance is sporadic and enforcement of truancy laws difficult. Many children also remain out of school to work with their parents in the field in order to supplement the family income.

[27] Taylor and Rowell, "Patterns of Agricultural Labor Migration Within California" in *Monthly Labor Review*, November, 1938, p. 3.
[28] U. S. Federal Interagency Committee on Migrant Labor, *Migrant Labor—A Human Problem* (1947), p. 23.
[29] Mabel A. Elliott and Francis E. Merrill, *Social Disorganization*, New York, Harper Bros. (1941), p. 325.

California studies of migrant children in the San Joaquin Valley during 1936 and 1937 revealed that 70% of the white children and 80% of the Mexican children between the ages of six and fifteen were in a retarded grade for their age.[30]

The extent of retardation is indicated in the following table:

Years retarded	*Percentage retarded* *White*	*Mexican*
One year or more	66.4%	85.3%
Two years or more	38.5%	57.4%
Three years or more	19.1%	23.5%
Four years or more	9.7%	8.8%
Total retarded	69.6%	86.2%

Source: California. State Relief Administration, *Agricultural Migratory Laborer in the San Joaquin Valley, July and August 1937* (1937) p. 14.

More recent studies reveal the same problem. An investigation by the District Superintendent of the Merced City Elementary Schools in 1940 disclosed that "children of these migrants are retarded from 2 to 4 years, a fact which makes their education difficult because their academic has not kept pace with their physiological development." [31]

A similar study in the Porterville Elementary School system concluded with these facts:

> "In a study of the transfer problem it was found that many of the children of the migrant families are late enrolling for the term. This means that they miss several days out of the school term.
>
> "It was also found that children of migrant families often leave the system before the end of the term. Apparently these children fail to enroll in another school and additional days are lost.
>
> "Migrant children are often not adjusted to the grades of the classrooms in which they are placed. Many of the students are over-age chronologically and are found weak in fundamental subjects. These out of adjustment problems are attributed to environment and not a lack of mental ability." [32]

The same study attributes the maladjustment of migrant children to the following environmental causes: (1) Insecurity caused by economic conditions of parents. (2) Loss of school time because of transferring from place to place or because the parents neglect to keep the children in school. (3) Physical conditions impairing the health of the students. (4) Lack of environmental experiences in the homes that lead to educational improvements, such as lack of magazines, newspapers, and books.[33]

Finally, a study of pupil age-grade progress in the southern district schools of Kern County, which includes a large migrant children enrollment, indicates that two-fifths of the school population were not promoted at some time during their school life.[34]

Although California law requires children to enroll in school within three days after arriving in a new school district, many children remain away for longer periods of time. The inadequate number of attendance officers and community attitudes frequently hamper the effective enforcement of that law. As Victor Jones suggests:

> "If the attitudes of influential members of the community favor the employment of children during the rush of harvest, the chances are slight that children of migrant, agricultural laborers will be compelled to attend school." [35]

The Federal Interagency Committee on Migrant Labor, without making direct reference to California, suggests that school facilities for migrant children are often not equal to those of resident children. The report states:

> "Much of the support for schools comes from local school districts and many communities believe that the primary responsibility of the already overburdened school district is to children who are permanent residents. Local taxpayers are likely to resist any increase in school expenses resulting from the admission of temporary residents. * * * Teachers in the usual crowded schoolroom with a set course of study find it difficult to fit into the school pattern migrant children who enter late and stay only a short period of time." [36]

California's concern for the problem has been reflected as early as 1921 when a law was enacted authorizing establishment of special classes for children of migratory laborers engaged in seasonal industries in the rural districts of the State.

Despite active attempts to provide equal educational opportunities for migrant children, the travel demands of their families, need to supplement family income with child labor, and community attitudes generally result in educational disadvantages. Other reasons, as suggested by the Superintendent of the Porterville Elementary Schools, would include the insecurity of the children, physical conditions impairing the children's health, and lack of environmental incentives to improvement.

There is little disagreement about the values of education. Education is necessary for the preparation of these young citizens for their future responsibilities as adults. Scholastic training also offers them a chance to improve their particular economic and social status.

Deprived of this training and experience, these children are burdened additionally by feelings of insecurity and isolation. They frequently become problem children who seek status and attention through compensatory behavior of a delinquent nature. They are not only administrative problems to school officials at present, but, in the light of their deleterious social environment, will probably constitute serious social problems as adults.

F. COMMUNITY REJECTION

The migrant laborer cannot establish roots in any given community. During his short stay in a community, he is not only discouraged from participation in community affairs, but often repelled when such attempts are made. The fear of adding another public charge, and the equally marked culture conflicts motivate adverse community reactions to the itinerant agricultural worker and his family.

The hostility of the community towards the migrant laborer results in their complete isolation from community affairs, and further implements feelings of insecurity and a resentment to the society which created the situation. This resentment frequently finds expression in anti-social behavior and results in violations of personal and property rights.

In his present situation the migrant does not experience any feelings of social solidarity, security or belonging. Community standards and mores which act as effective controls in the regulation of decent conduct of its residents do not apply to seasonal migratory segment of the population. The rather loosely constructed code of ethics of the itinerant laborer substitute. Reacting to their disadvantageous environment, and lack of supervision, migrants find expression in the breakdown of traditionally accepted codes of behavior, and often in crime and delinquency. Under present circumstances there can be little feeling of genuine social responsibilities.

As a result of their composite disadvantages, the children of migrants have been referred to as "a lost generation." Appearing before the Commission for the Study of Social and Economic Causes of Crime and Delinquency in Fresno, Mr. Don A. Jensen, Director of Welfare, Fresno County, said:

> "A whole generation of children is growing up without educational, recreational or social opportunities. One huge section of children will never have the opportunities they ordinarily should have in the United States. They are more or less a lost generation.
>
> "One of the major problems involved is community acceptance of these people. The towns do not want them. The growers do not want them after the crops are off. These people have to be made to feel the community wants them to be a part of community life.
>
> "We've got to rehabilitate the people in the camps and get them into the community." [37]

Since the migrant laborer is marked as a group apart from normal community life, their status is the lowest on the social scale. They are not welcomed socially because they are feared as possible sources of social and moral contagion. In no sense does the migrant belong. He and his family seldom participate in the normal social life of the communities through which they pass. Under these circumstances there is little hope for improvement to rise above their low economic and social position.

The barriers to social assimilation and community prestige are discouraging. The agricultural ladder—farm hand to farm tenant to farm owner—the process by which many current farmers established themselves, is almost completely closed to the migrant. The high cost of land, heavy capitalization and demands of mechanized and irrigated farming in California would prove insurmountable obstacles for the migrant worker to overcome, assuming he had the necessary skills to farm successfully in California. The migrant, as a result, is relegated to the role of subservient service in the State's agricultural economy, unable to enjoy the wholesome benefits of citizenry and community status.

The social liabilities of the itinerant agricultural laborer and his family are not merely the responsibility

[30] California, State Relief Administration, *Agricultural Migratory Laborer in the San Joaquin Valley, July and August 1937* (1937), p. 14.
[31] U. S. House of Representatives, Select Committee to Investigate the Interstate Migration of Destitute Citizens, *Hearings* * * * pursuant to H. Res. 63 and H. Res. 491, Part 6, p. 2436.
[32] *Ibid.*, p. 2345.
[33] *Ibid.*, p. 2345.
[34] *Ibid.*, p. 2448.
[35] California University Bureau of Public Administration, *Transients and Migrants* by Victor Jones (1939) p. 53.
[36] Federal Interagency Committee, *Migrant Labor—A Human Problem*, pp. 25-26.
[37] *Fresno Bee*, December 11, 1948.

of the local community, county or even the State. The migratory worker constitutes a national problem. The combined efforts and meaningful assistance of local, state and national levels of government will be required for any fundamental improvement.

Efforts must be made to settle them in stable community life and offer them an opportunity to enjoy the benefits of social and economic security. To ignore their present situation, one which has potentially dangerous social and psychological implications, is calloused and irresponsible. The present status of the migrant worker will continue to reflect itself in problems of law enforcement, welfare and health to the State. They will continue to constitute a needless social and economic burden unless conscientious attempts are directed to the solution of this important problem.

G. CONCLUSIONS

The social problems confronting the seasonal farm laborer and his family are multitudinous. Long periods of unemployment, low income and comparatively small annual earnings are characteristic. There are additional social hazards imposed by bad housing, constant mobility, inadequate health and medical facilities, community rejection and educational disadvantages suffered by their children. The composite disadvantages suffered by the migrant agricultural worker present a difficult obstacle in the quest for normal adjustment and wholesome living. Under these circumstances, socially accepted group mores are often repudiated. Compensatory expression may find an outlet in criminality and delinquency. An unwholesome social, economic and mental adjustment breeds social disorganization.

The disadvantages and inadequacies of the itinerant seasonal laborer's existence raise certain prominent facts in terms of delinquency and criminality.

1. We know from past studies that social instability has engendered criminal and delinquent behavior in individual instances. The social experiences of the migrant agricultural worker breed instability and insecurity, and therefore constitute risk factors in criminality and delinquency.

2. With a stable environment and an opportunity to participate in community life, normal personality adjustments are possible. "There is little delinquency among migratory agricultural laborers when they participate in stable community life," is the observation of the former assistant regional director of the Federal Security Administration.

3. Migrant workers are an economic asset to the State's agriculture. However, suffering personal, social and economic disadvantages, California assumes considerable cost in terms of welfare, law enforcement, health and education—more than is fundamentally realized.

4. There have been many piecemeal attempts made to alleviate the seasonal laborers' problems. Basically, however, these have been palliative measures which have not attacked the real roots of the problem.

5. Studies need to be undertaken to correlate the statistical incidence of crime of the resident farm population and migratory agricultural labor population. There is definitely a need for more reliable statistical information.

6. Because they lack community status, justice may be administered discriminatorily against seasonal laborers. Since they travel extensively alternatives to commitment to state institutions, such as probation, often will not be recommended.

7. The migrant is important, not only in fulfilling present needs for agricultural labor, but also in supplying the future citizenry of this State and Nation. Handicapped by environmental shortcomings their children's opportunities of assuming constructive and wholesome roles in the future life of the State and Nation are reduced considerably. It is therefore a human and social problem of utmost importance.

8. There have been considerable numbers of reports, studies and surveys of the migrant problem. Although their conclusions and findings are not unanimous, resettlement of the migrant worker on homes, small farms to give them some form of permanent residence, seems fundamental to the alleviation of their problems.

9. In a general survey of the migrant in California, *Fortune* magazine concluded with this appraisal:

> "The majority of the migrants (of California) are ordinary Americans who have been dispossessed mostly by forces beyond their control. Most of them are unskilled farm laborers, though there are workmen and tradespeople among them. . . . They haven't had much schooling but they are intelligent enough. They are anxious to work and they don't like taking relief. They appreciate what is done for them. They are mildly religious and their moral standards are fair. Their standards of cleanliness tend to succumb to the effects of squalid surroundings. They are standoffish and don't work well together. Some of them have become so far demoralized by long unemployment and substandard living that possibly they can never be rehabilitated; they have even lost ambition. But for the most part they are potentially self-supporting citizens who want only a chance to make a new start." [38]

H. PROPOSED SOLUTIONS

The pressing and complex problems confronting the migrant farm worker and his family have brought forth considerable numbers of proposed solutions and ameliorating measures. These suggestions have ranged from the extension and liberalization of welfare measures to the establishment of small cooperative farms for the seasonal worker.

Of the large number of suggestions for the improvement of the migrant problem, two representative and comprehensive sets of recommendations have been selected for enumeration. They are those of the Federal Interagency Committee on Migrant Labor and the California State Chamber of Commerce.

The Federal Interagency Committee in their 1947 report recommended the following:

1. Establishment of minimum wage rates for migrant agricultural workers.
2. Extension of federal labor camp program.
3. Closer regulation of labor contractors.
4. Extension of workmen's compensation and social security laws to include migratory agricultural workers.
5. Removal of state residence requirements for health welfare and recreational services.
6. Federal grants-in-aid to states to stimulate development of better housing, health, education and welfare services for migrants.

The committee also suggested steps be taken to decrease the need for migrant workers by maximizing mechanization in agriculture and encouraged the establishment of permanent residences for seasonal laborers through subsistence homesteads and garden home projects. Other recommendations included the extension of child labor laws and the education of communities dependent upon migrant labor of their economic importance.[39]

The California State Chamber of Commerce created a state-wide committee to study the migrant labor problem in 1939. Their recommendations were published in a report and presented in testimony before the Tolan Committee hearings in San Francisco. The Chamber of Commerce Committee recommended the following:

1. Extension of federal relief programs in states of origin of migrants to retard out-migration.
2. Reorganization of the farm placement service to develop more adequate information on current crop developments and farm labor requirements.
3. Continuation of the Federal Security Administration migratory labor camp program.
4. National study to determine the basis for relocating farm families.

The major emphasis of this study has been upon the composite effects of the social and economic environment of agricultural laborers and their families upon subsequent criminality and delinquency. Crime and delinquency is but one of a mosaic of social problems to which they are subjected. The area of social need and amelioration is considerable.

A strong democracy depends upon the well-being of its people. Ignoring the magnitude and recurring social harm of the current problem of migrant laborers weakens the fiber and ultimate strength of democracy.

"Migrant workers ask no special privileges," asserts the report by the Federal Interagency Committee on Migrant Labor. "They are, however, entitled to the opportunities and protections afforded other workers and to the benefits due them as American citizens." Only through the extension of this American principle of social justice can we hope to reduce the ultimate problems of crime and delinquency.

[38] *Fortune* magazine, "Migratory Labor—A Social Problem" 19:119, April, 1939.

[39] U. S. Federal Interagency Committee on Migrant Labor, *Migrant Labor—A Human Problem*, p. 7-13 (1947).

Selected Reading List

California Housing Association
The Housing of California's Agricultural Workers: Testimony before the Tolan Committee, San Francisco, September 24, 1940, by Catherine Bauer. 19 p. (mim.) 1940.

California State Chamber of Commerce
Migrants: A National Problem, and Its Impact on California: Report and recommendations of the state-wide committee on the migrant problem. 51 p. May 1940.

California Relief Administration. Division of Special Surveys and Studies
Migratory Labor in California. 224 p. (mim.) July 11, 1936.

California University College of Agriculture, Giannini Foundation of Agricultural Economics
Composition and Characteristics of the Agricultural Population in California, by George M. Peterson. 48 p. (Paper No. 80) July 1939.
Seasonal Labor Needs for California Crops, by R. L. Adams. 28 p. (Paper No. 74) July 1938.
Types of Farming in California Analyzed by Enterprises, by L. A. Crawford and Edgar B. Hard. 128 p. (Bulletin No. 654) September 1941.

Hewes, Laurence Ilsey
"Some Migratory Labor Problems in California's Specialized Agriculture". 293 p. (typ.) (Unpublished Ph.D. Thesis, George Washington University, 1945.)

California Board of Agriculture. Joint Interim Committee of the California Legislature on Agriculture and Livestock Problems. Reconstruction and Reemployment Commission.
Suggested Agricultural Policies for California. 192 p. June 1947.

U. S. Federal Interagency Committee on Migrant Labor
Migrant Labor—A Human Problem. 58 p. Washington, D. C. March 1947.

California University, Bureau of Public Administration
Transients and Migrants, by Victor Jones. 67 p. (mim.) (1939 Legislature Problem series, No. 4) February 27, 1939.

U. S. House Select Committee to Investigate the Interstate Migration of Destitute Citizens
Interstate Migration: Hearings—Part 6. San Francisco hearings, September 24 and 25, 1940. p. 2201-2801 (76:3) 1941.
Interstate Migration: Hearings—Part 7. Los Angeles hearings, September 28, 1940. p. 2803-3083 (76:3) 1941.
Interstate Migration Report—741 p. (77:1, H. Rep. No. 369) 1941.

U. S. Interdepartmental Committee to Coordinate Health and Welfare Activities
Migratory Labor: A report to the President by the Interdepartmental Committee. 21 p. July 1940.

U. S. Senate Committee on Education and Labor. Subcommittee
Violations of Free Speech and Rights of Labor Hearings—Part 59, California Agricultural Background: California's Migrant Problem. Work of Federal and State Agencies, San Francisco, California, January 25, 1940. 210 p. (76:3) 1940.
Violations of Free Speech and Rights of Labor Hearings—Part 62; Supplementary Exhibits: California Agricultural Background. p. 22541-22638. 1940.

Wood, Samuel E.
"California Migrants," *Sociology and Social Research.* 24:248-61 January 1940.

Taylor, Paul S. and Vasey, Tom
"Historical Background of California Farm Labor," *Rural Sociology.* 1:281-295 September 1936.
"Contemporary Background of California Farm Labor" 1:401-419 December 1936.

Taylor, Paul S. and Rowell, Edward
"Patterns of Agricultural Labor Migration Within California" 23 p. reprint from *Monthly Labor Review* November 1938.

Part V

REPORT B

A Study of Social and Economic Factors Related to Crime and Delinquency

in the Counties of

Kern, Fresno, Riverside, and San Diego State of California

Prepared for

The Special Crime Study Commission on
Social and Economic Causes of Crime and Delinquency

By

I. J. SHAIN
Senior Sociologist
May 20, 1949

CONTENTS

	Page
I. Preface	43
II. Acknowledgments	44
III. Introduction	45
A. Background of Study	45
B. Choice of Counties	45
C. Limitations	45
D. Methodology	46
IV. Summary	47
V. Community Background	49
A. San Diego County	49
B. Fresno County	49
C. Kern County	50
D. Riverside County	50
VI. Rates of Criminality: Offenses Known to Sheriffs and Police	51
VII. Commitment and Probation Statistics	54
A. Commitment Rates	54
1. Adult	54
2. Juvenile	54
B. Commitments: Offense, Race, Age, Prior Residence in California	54
1. Offense	54
2. Race	55
3. Age	55
4. Length of Prior Residence in California	56
C. Probation Rates	56
1. Adult	56
2. Juvenile	56
a. By Offense	57
b. Parental Status	57
c. Race	57
VIII. Law Enforcement Personnel	58
A. Sheriffs' Office	58
B. Police Departments	58
C. Crimes Cleared by Arrests	58
IX. Probation Departments Personnel	60
A. Case Loads	60
X. Delinquency Prevention	61
A. Coordinating Councils	61
XI. Population	62
A. Youths 5-18	62
B. 1944 Farm Population	63
XII. Agriculture	64
A. Income	64
B. Ownership of Farms	65
C. Agricultural Seasonal Labor	66
XIII. Industry: Employment and Eestablishments	71
XIV. Government	72
A. Expenditures	72
1. County	72
2. City	72
B. Assessed Valuation	72
C. Income: Taxes	72
XV. Welfare	73
A. Community Chest Supported Casework Agencies	74
XVI. Health	75
XVII. Education	79
A. Enrollment in Public Schools	79
B. Number of Schools and Average Daily Attendance	79
C. Guidance and Welfare Services	81
XVIII. Recreation	82
A. Private Group Work and Recreation Services	84
XIX. Social Problems	85
A. Introduction	85
B. Mobility	85
C. Unemployment	85
D. Housing Needs, Overcrowding, Urban and Rural Slums	86
E. Alcoholism	87
F. Breakdown of Family Life	88
G. Agricultural Migrants	88
H. Educational Needs	89
I. Shortage of Medical and Psychiatric Personnel and Guidance Clinics	90
J. Recreational Needs	90
K. Culture Conflicts and Minority Group Problems	90
XX. Conclusions	92
Bibliography	93

I. PREFACE

This is a socio-economic study of four typical California counties—Kern, Fresno, Riverside, and San Diego. This is a study of their people, their resources, their justice, their services, their problems, and their crime and delinquency. This is a kaleidoscopic view of four diverse communities: Urban and rural, large and small, old and young, agricultural and industrial, cosmopolitan and provincial.

This study by the Commission on Social and Economic Causes of Crime and Delinquency is an attempt to delineate typical factors in the social and economic environment which induce criminality and delinquency throughout the State. This is, in short, a thumbnail analysis of California. These are pilot studies.

II. ACKNOWLEDGMENTS

The commission is indebted to the many local private citizens and public officials of Kern, Fresno, Riverside, and San Diego Counties for their cooperation and assistance in providing information for this study. The commission held public meetings in Fresno, Riverside, and Bakersfield, at which representatives of law enforcement, recreation, religion, welfare, education, public health, group work, community organizations, labor, judiciary, probation, and minority groups appeared. These local meetings were held with the cooperation of the County Boards of Supervisors in Fresno, Kern, and Riverside Counties. The commission regrets that a similar meeting was not held in San Diego.

Many of the tables were originally tabulated by members of the staff of the Bureau of Public Administration, University of California, members of the staff of the Bureau of Statistics, Department of Justice, and the research staff of the Crime Commissions. A word of appreciation is extended to Miss Ann Welch, Socio-Economic Research Technician, Crime Commission staff, and to Miss Elizabeth Ferina, Research Technician, Bureau of Public Administration, University of California, for their most welcome contributions. The generous cooperation of Mr. Ronald Beattie, Chief, Bureau of Statistics, and the members of his staff, Mr. Fred Knowles, Miss Marie Vida Ryan, and Mr. Irvin Ramseier, also materially aided in the completion of this report.

Finally, the generous and spontaneous cooperation of the California Recreation Commission, Department of Education, Youth Authority, Department of Mental Hygiene, Department of Employment, and Department of Public Health was most appreciated and helpful.

III. INTRODUCTION

A. Background of Study

Crime and delinquency are so serious a symptom of our social ills that our efforts to combat it must be unceasing. In the war against crime and delinquency, the various disciplines of the social sciences as well as the exhaustive facilities of law enforcement and treatment must be exploited to the ultimate end that the incidence of behavior contrary to the ethical and liberal standards of society are materially reduced.

Studies of the etiology and genesis of crime and delinquency must be carried on simultaneously with the daily processes of law enforcement, treatment of offenders and the administration of justice. Only through unremitting effort can a basic understanding of the complex etiological problems be evolved.

While techniques of the treatment of offenders and law enforcement have become more refined as new information and bold experimental measures have been introduced, the more basic problem of crime and delinquency etiology remains, for the large part, an unknown quantity. The search for basic causes of crime, generally applicable to the larger majority group in a particular social setting, as well as the select minority of offenders, is a mandatory phase of our wholly deficient body of criminological research. Increases in the size and diversity of police departments, and the growth of penal institutions and treatment programs have aided in the apprehension and treatment of criminals, yet our understanding of crime's basic causes is still in the premature, growing stage. The basic phase of criminology lags behind the subsequent stages of enforcement and treatment.

To date, the many volumes of criminological research have been able to reveal but the smallest segment of etiological knowledge. The fundamental and widely accepted contemporary conclusion of criminological research is that the individual, in his composite unique experiences, has been led, through some dynamic combination of environmental and personal circumstances to behavior, attitudes and social evaluation which result in crime and delinquency. That finding, while fundamental and important, is so small a segment of the entire orientation, that we are unable to make any sweeping or valid generalizations about the causes of crime.

In this setting of criminological knowledge, the California Crime Study Commission of the Social and Economic Causes of Crime and Delinquency began their studies. The limitations were well known. Their contributions were, by very definition, likely to be limited. But they could focus their studies and research efforts upon those risk factors peculiar to California which are conducive to subsequent criminal and delinquent behavior. In this light, the four-county study was undertaken.

B. Choice of Counties

The four counties studied—Kern, Fresno, Riverside and San Diego—were carefully chosen to represent those typical of California. Kern, Fresno and Riverside Counties are predominantly agricultural, two of which represent the vast and rich San Joaquin Valley farming enterprises, while the third, Riverside, was typical of Southern California agriculture. The fourth county, San Diego, offered a contrast in its predominantly urban concentration, heterogeneous, large, metropolitan population, high rate of mobility, vast network of industrial holdings and manufacturing industries, and phenomenal recent growth of population. While agriculture is maintained and contributes to the wealth of San Diego County, its economic importance in relation to the total economy is considerably more diminished than in the other counties.

The problems of the agricultural counties, theoretically, were expected to differ from the latter industrial county. It was anticipated also that public services, and community response to the needs of its people would vary.

Because comprehensive statistics on offenses known to police and sheriffs in each county were not readily available at the beginning of the study, the commission turned to an examination of rates of commitment to state institutions and probation. As revealed in the statistical tables especially prepared by the Department of Justice's Bureau of Statistics the four counties had varying rates of commitment and probation. Although commitment and probation statistics are not definitive, nor reflective of the true crime and delinquency rate, they furnish, nonetheless, an indication of the extent of criminality and delinquency in the respective counties. More basicly, however, they reflect locally, the administration of justice.

The counties differ to some extent in the nature and magnitude of their problems of agricultural itinerant laborers, housing, welfare, recreation, health, and education. Citizen and governmental attitudes toward provision for the health, welfare and safety of the community also differed.

Each county has its own pulse, its own "community-ism," its own heartbeat, its own resources, its own sense of pride of accomplishment, its own history, its own protective mechanisms, its own group pride, its own sources of wealth and economic well-being, and its own provisions for education, recreation and law enforcement. In short, each community is distinct in its response to community needs, and by the same measure is as healthy or deficient as the self-interests of the citizenry responds to the call for new and needed facilities and services.

C. Limitations

This survey is not presented as a comprehensive, all inclusive compilation of facts and statistics of every service, delinquent, probationer, or attitude that each of the four counties embody or provide. The practical limitations of time, staff and funds precluded such survey. In addition, this study was but one of several major research investigations. Its process is therefore more selective with the emphasis on the examination of some of the more fundamental community resources and characteristics as they in turn, affect the respective individual county's problems of crime and delinquency.

There are some ommissions of finding. Fundamental information regarding population characteristics of age, sex, race, and nativity of birth are unavailable in this non-census year. In view of California's phenomenal growth of population within the last decade, it is almost impossible to accurately project 1940 census figures to present-day applicability.

An accurate count of offenses known to law enforcement officials is also lacking. Some of the personal and sociological aspects of the individual offender in each county would have been extremely helpful had they been

available. Also, information pertaining to religious participation would have been significant.

However, despite these and other omissions of fact, certain general conclusions may be drawn from the material available.

D. Methodology

Information for this study was gathered from a variety of published and unpublished sources. Comprehensive tables on the economic and agricultural resources, labor supply, probation personnel, health, welfare and other services were gathered from published reports.

Supplementary information was gathered from the California Recreation Commission, Statistical Bureau, Department of Justice, Department of Employment, Department of Education, Youth Authority and locally through the cooperation of numerous citizens and groups. Additional data were disclosed in the three public meetings in Riverside, October 7, 1948; Fresno, December 10, 1948; and Bakersfield, February 16, 1949. At these meetings, almost one hundred public and private citizens representing the fields of probation, law enforcement, recreation, housing, group work, welfare, medicine, public health, judiciary, religion, education, agriculture, industry, and labor gave generously of their time and efforts to the commission.

Additional information was gathered on field trips by the commission's field representative to the four counties.

IV. SUMMARY

1. By the index of offenses known to law enforcement officers in the four counties, Fresno ranked highest with a crime rate of 18.96 per 1,000 population in 1947. The rates for the other counties were as follows: Riverside, 14.36; San Diego, 12.81, and Kern, 10.46. Kern County rates, however, were based on incomplete data.

2. Crimes against property accounted for the larger proportion of crimes in all counties. The rates were as follows: Kern County, 98.8%; San Diego, 93.1%; Riverside, 87.5% and Fresno, 81.4%.

3. The ratio of law enforcement personnel of the sheriffs' offices to total population in the unincorporated territory for 1948 were: Fresno, 1:2608; Kern, 1:1516; Riverside, 1:547, and San Diego, 1:814.

4. Statistics of commitment to state institutions of adult males by the superior court in 1946 and 1947 were as follows: San Diego, 25.1 persons per 100,000 population; Kern, 33.7; Fresno, 39.4 and Riverside, 66.3.

5. Juvenile commitments in the same years were: San Diego, 15.9 juveniles per 100,000; Fresno, 18.8; Kern, 29.5 and Riverside, 37.6.

6. The offenses of robbery, burglary, theft and forgery accounted for the largest number of adult offender commitments in all four counties.

7. Burglary, auto theft, and other theft were the three major crimes for which the majority of juveniles were committed.

8. For the years 1946 and 1947, the percentage of adult commitments by race in the four counties were as follows:

County	*White*	*Mexican*	*Negro*
Kern	65 %	8.9%	21.9%
Riverside	65.8	16.5	14.5
San Diego	79.2	8.6	10.8
Fresno	61.8	19.3	18.5

9. For the same years, juvenile commitments by race in the four counties were:

County	*White*	*Mexican*	*Negro*
Kern	46.7%	32.6%	16.3%
Riverside	60.2	28.4	7.9
San Diego	58.1	31.6	5.1
Fresno	63.4	25.3	7.0

10. By these indices of disproportionate commitments of minority group members, there seems to be evidence of discriminatory prevailing community attitudes as reflected in the administration of justice.

11. It would be an unwarranted assertion to say that minority racial or nationality groups are more or less criminal on the basis of commitment rates. They actually reflect but a small segment of total offenses.

12. Total commitments, both male adults and juveniles, by age group, reveal that 51.2% of those committed from Kern County were under 25 years of age; Riverside, 41.4%; San Diego, 53.9%, and Fresno, 37.6% for 1946 and 1947.

13. By prior residence in California commitments in the four counties were as follows: 45.1% of San Diego's adult commitments had less than four years' prior residence; Riverside, 41.4%; Kern, 38.9%, and Fresno, 34.5%.

14. In 1946 and 1947 the following rates of adult probation for the four counties were derived: Riverside, 66.2 probationers per 100,000 population; Fresno, 52.5; San Diego, 43.9, and Kern, 41.6.

15. Juvenile probation rates per 100,000 population for 1946 and 1947 were: Kern, 457.4; Riverside, 194.0; Fresno, 128.3, and San Diego, 125.8.

16. The ratio of adult probationers to those sentenced to state institutions for the counties in 1946 and 1947 were: Riverside, 1:1; Fresno, $1\frac{1}{3}$:1; Kern, $1\frac{1}{4}$:1, and San Diego, 2:1.

17. The ratio of juvenile probationers to juvenile commitments were: Kern, 15.5:1; Riverside, 5.16:1; San Diego, 7.9:1, and Fresno, 6.8:1.

18. An index of law enforcement personnel efficiency is the percentage of actual known crimes cleared by arrest. The sheriffs' offices of the four counties, *according to their own reports,* cleared the following percentage of crimes in 1947 by arrests: Riverside, 81.2% of all Class I and Class II offenses (these include major felonies and some misdemeanors); Kern, 76%, and Fresno, 29%. Statistics for San Diego County are only available for the clearance of Class I offenses. In that county 46.4% of major felonies were cleared by arrest. The total clearances of both Class I and Class II arrests, if available, would doubtlessly show a considerably higher percentage in San Diego.

19. Probation personnel in all counties had case loads far in excess of the desired standard of 50 cases per officer.

20. Coordinating councils exist in two counties, San Diego and Fresno. In the latter county their operations are on a modest scale. In San Diego, however, there are more than 25 local councils, as well as a county-wide parent organization. There are evidences of considerable activity in San Diego County in delinquency prevention work through the medium of coordinating councils.

21. Estimates of population breakdown, ages 5-18, based on current school attendance in grades—kindergarten to 12th grade in high school—are as follows: Fresno County, 66,834 youth between 5-18 years of age in 1948; Kern, 47,608; Riverside, 36,073, and San Diego, 84,128. On a percentage basis of total population, youths of the ages 5-18 years comprised 27.7% in Fresno County; 25.1% in Kern; 24.4% in Riverside and only 15.6% in San Diego. These population statistics lend some significance to the evaluation of commitment and probation rates, as well as crime rates.

22. In 1944 the number of persons living on farms in the four counties were: Fresno, 44,875; Kern, 17,258; Riverside, 19,785, and San Diego, 18,096.

23. In 1945 agricultural production in the four counties differed, as measured by total value of products. Fresno County realized in that year agricultural incomes totaling $104 million; Kern, $75.7 million; Riverside, $45.8 million, and San Diego, $25.9 million. This index reflects the relative importance of agriculture in the four counties.

24. The percentage of farm operators who owned their own farms in 1945 were: Fresno, 79%; Riverside, 83%; San Diego, 89%, and Kern, 52%. This is an index of absentee ownership and farm tenancy.

25. The labor force increased considerably in the six-year period from 1939-1946. There were 43,685 workers in Fresno County in all industries in 1946, with an annual pay roll of $107,838,064. Kern County, with an industrial labor force of 33,756, had annual pay rolls of $89 million. Riverside had 23,862 industrial workers and a $55 million pay roll. San Diego's industrial workers who were

employed in 1946 totaled 83,918, with an annual pay roll of $211 million.

26. Per capita expenditures for governmental activities in the four counties for the 1947 fiscal year were:

County	*Expenditure*	*Estimated per capita expenditure (1947)*
Fresno	$18,997,402	$76.76
Kern	19,901,331	104.80
Riverside	11,728,265	79.41
San Diego	29,560,595	58.34

27. In 1947, the number of welfare recipients varied as follows:

County	*No. persons*	*No. recipients per 100,000 population*
Fresno	7,377	30.6
Kern	5,535	29.1
Riverside	1,762	11.9
San Diego	11,751	21.7

28. Per capita expenses for county health and hospitals in 1947 were: Fresno, $1.83; Kern, $4.36; Riverside, $0.87, and San Diego, $0.76.

29. A survey of hospital needs by the State Department of Public Health showed: Fresno County, 81% more facilities needed; Kern County, 27%; Riverside, 24%, and San Diego, 69%.

30. Total school enrollment in 1948 in the four counties of grades—kindergarten to 14th and including special classes—was: San Diego, 95,425; Fresno, 55,311; Kern, 51,912, and Riverside, 34,138. San Diego's total enrollment included 18,068 adults in special high school classes.

31. Provision for public recreation needs varied. San Diego and Kern Counties had extensive programs. Fresno and Riverside Counties' recreation programs were limited to the major metropolitan city.

32. The four counties had social problems typical of California. They included:

a. Migration and mobility
b. Unemployment
c. Housing shortages and overcrowding
d. Urban and rural slums
e. Alcoholism
f. Breakdown of family life
g. Agricultural migrants
h. Educational needs
i. Shortages of psychiatric personnel and adequate guidance clinics
j. Recreational needs
k. Culture conflict and minority group problems.

33. On the basis of the data contained in the study, the following conclusions were drawn:

a. Fresno County had, in a majority of indices, the most serious social problems. These included mobility, size of agricultural labor force, recreational needs, unemployment, size of its welfare problem and displacement of labor by mechanized agricultural equipment.

b. Communities which have attempted more extensively to implement their services for the health, welfare and well-being of their citizens seemingly have lower rates of crime.

c. There is evidence by the proportion of minority group members committed to state institutions and corollary statistics of probation that there is vindictiveness of justice.

d. The assimiliation of newcomers to California has presented real problems.

e. Unemployment is becoming an ever-increasing problem in California and in the four counties.

f. Probation departments have too great a case load to effectively supervise their probationers.

g. There is need for more extensive use of crime prevention programs in the four counties. San Diego's coordinating council program is commendable, but additional crime prevention needs are apparent there also.

h. There are needs for the use of additional special juvenile officers in the four counties, part of whose functions should be prevention.

i. The growing population increases through migration and the natural increases through births indicate both present and future educational needs for both new facilities and teachers.

j. Alcoholism is a major problem in all four counties.

k. Criminal statistical compilations are in need of greater uniformity, completeness and reliability.

l. The problem of agricultural migrants is largest in Fresno County followed in order by Kern, Riverside and San Diego.

V. COMMUNITY BACKGROUND

San Diego, Fresno, Riverside and Kern Counties occupy important places in the history and development of California. The rich natural resources, productive farm lands, scenic wonders, industrial contributions and historical traditions of these counties lend them stature and significance. Their tremendous and rapid growths of population within the past decade, characteristic of the entire State, have likewise been significant. Their economic and governmental evolutions have been typical of California, with change and expansion the predominant characteristics. Rich, youthful and energetic, they have developed under the stimulus of new ideas and bold vision.

A. San Diego County

San Diego County is the oldest of those under study. It is also the largest in terms of population. One of California's original twenty-seven counties, it was formed in 1850. Lying at the southernmost tip of the State, contiguous to Mexico's Lower California, it was one of the first counties to feel the impact of Spanish culture. Its predominant Spanish architecture, and historic missions contemporarily reflect that culture.

From the date of its discovery in 1542 by Cabrillo, San Diego has grown in stature and economic and military importance. In that year the Bay of San Diego was discovered while the noted Spanish explorer was exploring the coast of New Spain. Some 227 years later, 1769, the Spanish rulers launched an expedition of 100 men under Gaspar de Portola to colonize and explore California. Another famous historic California personage, Father Junipero Serra, was given the responsibility of developing the missions which were to be established in California. He founded Mission San Diego de Alcala, the State's first mission, around which grew the first town and agricultural development in California.

The City of San Diego, fourth largest in the State, owes much of its development to the efforts of Alonzo Horton, who originally subdivided it in 1867. Periods of expansion and speculation followed with boom and bust results. With the opening of the Panama Canal in 1915, San Diego experienced an era of industrial and commercial expansion. The two world wars brought further rapid expansion to San Diego with the establishment of its famous naval base in the First World War, and the concentration of aircraft production facilities in the Second World War.

San Diego County, which contains 2,725,120 acres of land area, is approximately 80 miles in width. Its coast line extends for some 70 miles along the Pacific Ocean on which many of its nationally famous resort towns are located. On the north it is bordered by Orange and Riverside Counties, on the east by Imperial County and the south by Mexico.

Approximately 48% of its land area is publicly owned. The remaining 52% of privately owned area consists of 1,428,786 acres of which 768,318 are in farms. Subdivision lots, forest and mineral holdings comprise the remaining 660,468 acres of privately owned land.

San Diego is predominantly an urban, industrial county, with the large city of San Diego dominating the cultural and economic life of the county. The total estimated county population for 1946-47 was 540,950. San Diego city and its metropolitan area had in the same year 361,942 residents, almost two-thirds of the county's population.

The rapid growth of the county is reflected in census statistics of the last forty-five years. From a small population of 35,097 in 1900, the county has grown to almost 600,000 in 1949.

Census	*Total population*	*Percent change*
January 1, 1900	35,097	--
January 1, 1910	61,665	75.7
January 1, 1920	112,248	82.0
April 1, 1930	209,659	86.8
April 1, 1940	289,348	38.0
January 1, 1946	481,000	--
1946-47	540,950	86.9

Source: California Blue Book (1946) p. 664.
1946-47: California Taxpayers' Association, *Tax Digest*, January 1947 and January 1948.

B. Fresno County

Fresno County, located in the heart of the rich San Joaquin Valley, was created in 1856 from portions of Mariposa, Merced and Tulare Counties. Subsequent to its establishment, portions of it were annexed to other counties; to San Benito in 1893, Madera County, and later Kings County in 1909. From the latter date, 1909, its present boundaries were established.

The attraction of gold brought miners into the upper reaches of the San Joaquin River where the original settlement was located. Stockmen and cattle raisers followed, and finally farmers and ranchers who succeeded in developing irrigation systems to provide water to the arid soil. With the aid of irrigation, orchards and vineyards were developed which are a characteristic of the county's agriculture of this day.

Although Fresno is not the largest county in the State, its geographical area is enormous—3,830,400 acres, or 6,005 square miles. Approximately 2,000,000 acres are privately owned, 71% of which is in farm land. Its annual agricultural output is enormous.

Fresno is a wealthy county—in natural resources, scenic splendor and agriculture. Its 9,146 farms which extend over an area of 2,143,835 acres produce many diversified crops, and the major quantities of grapes, cotton and melons in the State.

Bordered on the east and west by mountains, Fresno offers contrasts of altitude, scenery and temperature. Its elevation varies from peaks of 13,000 and 14,000 feet in the Sierra Nevada range to the valley elevation of but a few hundred feet above sea level.

Fresno County's population has similarly expanded at a rapid rate within the last half century. From a 1900 population of 37,866, it has grown to an estimated 1946-47 population of 241,200. In addition there is an annual seasonal ebb and flow of population created by the influx of migrant agricultural laborers in the cotton fields, vineyards and produce ranches of the county. The census

statistics of Fresno County's population from 1900-1946 are as follows:

Census	*Total population*	*Percent change*
January 1, 1900	37,866	--
January 1, 1910	75,657	99.8
January 1, 1920	128,779	70.2
April 1, 1930	144,379	12.1
April 1, 1940	178,565	23.7
January 1, 1945	207,000	--
1946-1947	241,200	35.1

Source: California Blue Book (1946).
1946-47: California Taxpayers' Association, *Tax Digest*, January 1947 and January 1948.

C. Kern County

One of the later counties to be organized, Kern was established in 1866 from portions of Los Angeles and Tulare Counties. It is the second largest county in the State having a total acreage of 5,228,800 acres, 8,003 square miles.

Several years prior to the Revolutionary War, the first white man visited the territory that is now Kern County. Pedro Fages came in 1770, to be followed by Commandante Tagus and Father Garcia in 1776. The first American to enter the lower San Joaquin area, Captain Jedediah Stron Smith, was fleeing at the time from a Spanish order of arrest at San Bernardino, and did not come until 1827.

The county derives its name from Edward Kern, the topographer for John C. Fremont's second California expedition in 1845. This topographer mapped the Kern River which was also later named in his honor.

Six years later, 1851, with the discovery of placer gold in the stream bed of the Kern River between what is now Kernville and Havilah, the first real settlement of the county began. The area's agricultural development, later to supersede its exploitation of natural resources, was not begun until Col. Thomas Baker came and successfully directed a reclamation project which provided water for the rich but arid land of the county. In honor of this Kern County pioneer, the City of Bakersfield was named.

Kern County's population in 1900 totaled 16,476. Estimates of the 1946-47 population is 189,900. Its growth in four and one-half decades equalled approximately 173,000 persons, or a percentage gain of 1150%. Since 1940, it gained 54,776 new residents, or 40.5%. The following table indicates Kern County's progressive growth by census year from 1900 to 1946-47:

Census	*Population*	*Percent change*
January 1, 1900	16,476	--
January 1, 1910	37,715	128.9
January 1, 1920	54,843	45.4
April 1, 1930	82,570	50.6
April 1, 1940	135,124	63.6
1946-1947	189,900	40.5

Source: California Blue Book (1946).
1946-47: California Taxpayers' Association, *Tax Digest*, January 1947 and January 1948.

The county, which is 143 miles long and 67 miles wide, has the contrasts of desert, mountains and rich valley land. Some 3,835,345 acres are privately owned, 73% of the total land area, of which 2,911,546 acres are in farms. The county is rich in resources and had an assessed valuation in 1947 of $399,000,000.

D. Riverside County

Riverside County, noted for its citrus production and desert resorts, formerly was part of both San Bernardino and San Diego Counties. Of the four counties under study, it was the most recently organized, 1893.

The fourth largest county in the State, it embraces an area of 4,594,560 acres, or almost 7,180 square miles. Much of its area lies in desert, whose exploitation is foreseen by the development of the new All-American Canal.

Its historical import is reflected in several events. Among others, it was the first inland gateway to the Coast of California, which was discovered by De Anza in 1774 on an overland expedition from Mexico.

The City of Riverside lies on part of the original land grant, "Rancho Jurupa" which comprised 31,000 acres in 1838. It was also in that same year, 1838, that the settlement by the Spaniards began.

Of Riverside County's enormous land area, only a third is privately owned. A little over 1,000,000 acres of the public land is in unappropriated public domain, lying mostly in the desert. Of the 1,541,700 acres of privately owned land, 48% is in farms.

The county offers the widest possible diversity in climate and topography, with variations from 219 feet below sea level to 10,895 feet. The county's richest agricultural land lies in the northwest portion where the Santa Ana River drains from the San Bernardino Mountains. Coachella Valley, where much of the citrus is currently grown, lies in the center of the county.

Riverside County's population has grown with the rapidity characteristic of the State. From its 1900 total of 17,842 residents, it has expanded to an estimated population of 147,700 in 1946-47. The growth in the past four and one-half decades is demonstrated in the following table:

Census	*Population*	*Percent change*
January 1, 1900	17,842	--
January 1, 1910	34,696	93.9
January 1, 1920	50,297	45.0
April 1, 1930	81,024	61.1
April 1, 1940	105,524	30.2
January 1, 1945	130,600	--
1946-1947	147,700	40.0

Source: California Blue Book (1946).
1946-47: California Taxpayers' Association, *Tax Digest*, January 1947 and January 1948.

VI. RATES OF CRIMINALITY: OFFENSES KNOWN TO SHERIFFS AND POLICE

In the absence of a more reliable, analytical index of crime rates, felony offenses known to law enforcement officers are most widely used. As Professor Sellin remarked: "A crime index must be based, of course, on that fraction of the total criminality which is *recorded* by public authorities who *come into contact with* the crime. It must be based, of course, on the assumption that a certain constancy exists over long periods of time in the proportionate relationship of the total criminality to that recorded."[1]

Felonies comprise the serious categories of offenses known to law enforcement officers. A felony offense, by definition of the California Penal Code, is one for which the law prescribes punishment by a prison term or death.[2]

Numerous acts of criminal behavior are defined by California statutes as felonies. The major categories of these more serious offenses include homicide, rape, robbery, assault, burglary, grand theft, auto theft, sex offenses, and issuance of fictitious checks or those without sufficient funds. These are the most commonly committed offenses, punishable by prison sentences ranging from one year to death.

Through the cooperation of the Bureau of Statistics and the Division of Criminal Identification and Investigation (both of the California Department of Justice) these statistics have been compiled for the four counties. Municipal felony offenses know to police were gathered from the annual Uniform Crime Report of the Federal Bureau of Investigation.

The completeness and reliability of these statistics are unknown factors. A comparison of DCI (Division of Criminal Identification) statistics and those of the Federal Bureau of Investigation reveals significant evidence of disparity. When further compared with available statistics of the annual reports issued by law enforcement officers in the four counties, additional contradictions in statistical summaries become apparent. The level of statistical reporting in the field of crime and law enforcement is extremely low and considerably in need of improvement and uniformity.[3]

The data on offenses known in the four counties comprise the total of those reported by: (1) the sheriff's office, and (2) police department of the major metropolitan city within the county. The jurisdiction of the sheriff's office extends theoretically over the entire county but as a matter of actual practice, incorporated cities provide their own police protection through locally administered police departments.

To derive indices of crime rates in each county on a per capita basis, the following method was used: The sum total of offenses known to the sheriff's office and police department of the major city were divided by the total of estimated population of the unincorporated territory and that of the principal city.

For the calendar year 1947, the following rates of criminality in Kern, Riverside, San Diego, and Fresno Counties were computed:

Table 1. RATES OF FELONY OFFENSES PER ONE THOUSAND POPULATION IN 1947 FOR THE COUNTIES

County	Rate per 1,000 population	Total felony offenses, major cities and unincorporated areas	Population: major city and unincorporated areas
Kern	10.46 [1]	1,803	172,410
Riverside	14.36	1,511	105,167
San Diego	12.81	5,877	459,671
Fresno	18.96	3,464	209,004

[1] This rate is based on incomplete data on offenses known.
Sources: Population Statistics:
County population (1946-47) California Taxpayers' Association, *Tax Digest*.
City population (1948) California Department of Public Works, *Revised Estimated Apportionment of Gas Tax Allocation to Cities, Fiscal Year, 1949*.
Felony Offenses:
County Statistics: California Department of Justice, Division of Criminal Identification and Investigation, *Felony Offenses Known to Sheriffs for the Calendar Year, 1947* (unpublished).
City Statistics: U. S. Department of Justice, Federal Bureau of Investigation. *Uniform Crime Reports*, No. 2, 1947.

By the index presented in Table 1, Kern County had the lowest criminality rate, 10.46 per 1,000 population, and Fresno County the highest, 18.96, for the year 1947. There is reason to believe, however, that Kern County data is incomplete. (See Table 2.) The respective rates of known crimes of Riverside and San Diego Counties were 14.36 and 12.81 per 1,000 persons, varying between the extremes of contrasting rates in Kern and Fresno Counties.

In subsequent Tables 2, 3, and 4, these known felonies are broken down by offense categories. In addition to the table indicating offenses known to the Federal Bureau of Investigation, 1947, there is included for purposes of comparison, tables showing those offenses reported to the Division of Criminal Identification by major cities.

Table 5 indicates the breakdown of crimes against person and property known to the sheriffs' offices and police departments of the major city in each of the four counties.

The differences between the number of known felony offenses reported to the California Division of Criminal Identification and to the Federal Bureau of Investigation in 1947 are carefully detailed in Table 4 A. It is interesting to note that, in only one instance, number of robberies known to Riverside City Police, did the crime statistics reported to the D.C.I. and F.B.I. correspond! For every other offense for which comparable statistics are available, homicide, assault, burglary, auto theft, and robbery, the number reported by the Fresno, San Diego, Bakersfield, and Riverside police departments to these two agencies differed. The largest discrepancy of reporting occurred for the offense auto theft. In all instances for that offense, differences ranged from 95 to 1,103 more crimes than reported to the California Division of Criminal Identification.

These significant discrepancies in reporting raise several important questions relative to the reliability of local criminal statistics. The differences may arise from several

County	County [1] population (1946-47)	Population [2] of cities (1948)	Population [2] major city	Total population: Unincorporated area and major city
Kern	189,900	50,444	32,954	172,410
Riverside	147,700	86,939	43,939	104,700
San Diego	540,950	444,033	362,754	459,671
Fresno	241,200	111,804	76,608	209,004

Sources: [1] County figures based upon average of 1946-47 population as appearing in California Taxpayers' Association, *Tax Digest*, January 1947 and 1948.
[2] California Department of Public Works, *Revised Estimated Apportionment of Gas Tax Allocation to Cities, Fiscal Year (1949)* (These statistics represent for the most part 1947 figures).

[1] Thorsten Sellin, "The Basis of a Crime Index," in *Journal of Criminal Law and Criminology*, 22:336-337, September, 1931.
[2] California. Penal Code (1947) Sec. 17.
[3] See report: *Criminal Statistics in California*, in appendix.

possible sources. These include the competency and adequacy of local criminal statisticians; the lack of uniformity of record keeping and distribution of forms of known offenses; the misplacement of records of many known offenses; the absence of standard forms and objective standards for recording known offenses; the lack of demonstrated public interest in accurate and uniform crime reporting; and the diversity of definitions of felony offenses.

It is axiomatic that no intelligent evaluation of law enforcement efficiency or competent studies of the administration of justice can be founded on these totally unreliable bases. The need for uniform and accurate criminal statistics, not only locally but elsewhere in the United States, has been a major emphasis of students of criminology. The achievement of this goal would be a major accomplishment in the field of the administration of justice. It is a necessary prerequisite to development in this important socially responsible field.

Rural and urban crime rates, as measured by known felony offenses reported to the California Division of Criminal Identification for 1947, differed in only two of the four counties, Kern and Fresno. San Diego and Riverside Counties, with relatively high ratios of sheriffs' office personnel to population in the unincorporated area, had little difference between urban and rural crime rates. On the other hand, the differences between these rates in Kern and Fresno County were marked. From our previous discussion, there seems to be ground for believing that the number of offenses known to the Kern County sheriff's office, as reported to the D.C.I., is quite incomplete. For example, Kern County's sheriff reported no assault, rape, fraud or check offenses during 1947. There is also reason to believe that Fresno County statistics are incomplete, though possibly not to the same extent as those of Kern County. Therefore, in evaluating the differences between urban and rural crime rates in Fresno and Kern Counties, the element of error and incompleteness in reporting is a primary consideration. In addition, differences may rest upon several other factors. These include: (1) the ratio of sheriff's office law enforcement personnel to both population and geographical distribution. Both Fresno and Kern County had lower ratios of law enforcement personnel than Riverside and San Diego Counties. (2) Law enforcement practices in reporting and recording offenses may differ. (3) Rural residents may commit crimes in the metropolitan centers during leisure hours. (4) Crimes against person may be handled more informally in rural areas without resorting to official complaints.

Therefore, if there were evidences of similar practices of recording and reporting, similar ratios of law enforcement personnel to population, adequate patrolling of the unincorporated area, and more complete reporting, there is reason to believe that Kern and Fresno County rural-urban crime rates would be more similar than is apparent at present. Differences in rates are frequently differences in methods of reporting, as well as differences in law enforcement techniques.

Table 2. FELONIES KNOWN TO SHERIFFS' OFFICES FOR THE CALENDAR YEAR, 1947, AS REPORTED TO THE DIVISION OF CRIMINAL IDENTIFICATION AND INVESTIGATION

County	*Total felonies*	*Homicide*	*Robbery*	*Assault*	*Burglary*	*Rape*	*Grand theft ($200 and over except animals)*	*Auto theft*	*Fraud and embezzlement*	*Check*	*Sex offenses*	*Misc.*	*Rate per 1,000 population in unincorporated territory*
Kern	163 [1]	2	11	--	141	--	6	2	--	--	--	1	1.17
San Diego	544	1	21	12	278	15	50	93	--	39	10	25	5.61
Riverside	427	2	20	34	135	11	41	6	--	158	6	12	7.03
Fresno	398	7	33	50	190	9	24	11	--	38	8	28	3.08

[1] The total number of felonies reported by Kern County is doubtlessly incomplete. Note that no assault, rape, check or sex offenses were reported.

Table 3. FELONIES KNOWN TO POLICE DEPARTMENTS IN BAKERSFIELD, SAN DIEGO, RIVERSIDE, AND FRESNO FOR THE CALENDAR YEAR 1947, AS REPORTED TO THE DIVISION OF CRIMINAL IDENTIFICATION AND INVESTIGATION, DEPARTMENT OF JUSTICE

City	*Total felonies*	*Homicide*	*Robbery*	*Assault*	*Burglary*	*Rape*	*Grand theft ($200 and over except animals)*	*Auto theft*	*Fraud and embezzlement*	*Check*	*Sex offenses*	*Misc.*	*Rate per 1,000 population*
Bakersfield	722	3	42	9	266	2	45	9	--	342	2	2	21.9
San Diego	1,829	17	195	153	885	53	183	3	1	256	60	21	5.1
Riverside	353	3	17	36	174	3	24	2	--	86	2	6	8.0
Fresno	1,243	9	197	90	626	10	96	30	1	172	1	11	16.2

Table 4. FELONY OFFENSES KNOWN TO POLICE IN BAKERSFIELD, SAN DIEGO, RIVERSIDE, AND FRESNO FOR THE CALENDAR YEAR 1947, AS REPORTED TO THE FEDERAL BUREAU OF INVESTIGATION *

City	*Total felonies*	*Homicide*	*Robbery*	*Assault*	*Burglary*	*Grand theft ($50 and over)*	*Petty theft (under $50)*	*Auto theft*	*Rate per 1,000 population*
Bakersfield	1,640	1	39	14	261	236	923	166	49.8
San Diego	5,343	16	193	121	867	858	2,182	1,106	14.7
Riverside	1,084	2	17	43	189	122	614	97	24.7
Fresno	3,066	1	179	80	560	474	1,388	384	40.0

* Source: U. S. Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, Vol. 18, No. 2, 1947.

Table 4A. DIFFERENCES OF KNOWN FELONY OFFENSES AS REPORTED TO THE CALIFORNIA DIVISION OF CRIMINAL IDENTIFICATION AND TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE CALENDAR YEAR 1947

Offense	*Bakersfield*			*San Diego*			*Fresno*			*Riverside*		
	DCI	*FBI*	*Difference*	*DCI*	*FBI*	*Difference*	*DCI*	*FBI*	*Difference*	*DCI*	*FBI*	*Difference*
Homicide	3	1	+2	17	16	+1	9	1	+8	3	2	+1
Robbery	42	39	+3	195	193	+2	197	179	+18	17	17	--
Assault	9	14	—5	153	121	+32	90	80	+10	36	43	—7
Burglary	266	261	+5	885	867	+18	626	560	+66	174	189	—15
Auto Theft	9	161	—152	3	1,106	—1,103	30	384	—354	2	97	—95
Grand Theft [1]	45	236	—191	183	858	—675	96	474	—378	24	122	—98

[1] Grand Theft: The basis of thefts reported to the California Division of Criminal Identification is $200, except in theft of animals. The FBI basis is thefts over $50; hence the differences in the number of reported crimes.

Differences represent the number of offenses greater or larger as reported to these two agencies. Where DCI figures were larger, there was a plus sign used. In all other cases, a minus sign was used.

Table 5. CRIMES AGAINST PERSON AND PROPERTY, 1947, SAN DIEGO, KERN, RIVERSIDE, FRESNO COUNTIES AND PRINCIPAL CITIES

County and city	*Crimes against person*					*Crimes against property*							*Crimes against person*		*Crimes against property*	
	Homicide	*Assault*	*Rape**	*Sex offenses*	*Total*	*Robbery*	*Burglary*	*Grand theft*	*Petty theft*	*Auto theft*	*Misc.*	*Total*	*Total*	*Percent*	*Total*	*Percent*
Kern County	2	--	--	--	2	11	141	6	--	2	1	161	2	1.2	163	98.8
Bakersfield	1	14	2	--	17	39	261	236	923	166	--	1,625	17	10.3	1,625	89.7
San Diego County	1	12	15	10	38	21	278	50	--	93	64	506	38	6.9	506	93.1
San Diego City	16	121	53	60	250	193	867	858	2,182	1,106	--	5,206	250	4.6	5,206	95.4
Riverside County	2	34	11	6	53	20	135	41	--	6	170	372	53	12.5	372	87.5
Riverside City	2	43	3	2	50	17	189	122	614	97	--	1,039	50	4.6	1,039	95.4
Fresno County	7	50	9	8	74	33	190	24	--	11	66	324	74	18.6	324	81.4
Fresno City	1	80	10	1	92	179	560	474	1,388	384	--	2,985	92	3.0	2,985	97.0

City Statistics: U. S. Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, Vol. 18, No. 2, 1947.

* Rape and sex offense statistics gathered from Report to California Division of Identification and Investigation, Department of Justice, calendar year 1947 (unpublished).

County Statistics: California Department of Justice, Bureau of Statistics, *Crimes Known to Sheriffs for the Calendar Year 1947* (unpublished).

VII. COMMITMENT AND PROBATION STATISTICS

Of those offenders apprehended and brought to trial, commitment to state institutions and probation are two alternatives following judicial findings or pleas of guilt. As comparisons with statistics of known felonies reveal, only a small percentage of offenses result in either probation or commitment.

A. COMMITMENT RATES

1. Adult

For the calendar years 1946-47, the following rates of commitment in Kern, Fresno, Riverside and San Diego Counties have been computed by the Bureau of Statistics, Department of Justice.

ADULT COMMITMENTS PER 100,000 POPULATION, 1946-1947

County	Male	Female	Total
State	30.4	1.1	31.5
Kern	32.4	1.3	33.7
Riverside	65.3	1.0	66.3
San Diego	24.5	0.6	25.1
Fresno	38.6	0.8	39.4

Of the four counties, Riverside had the highest rate of male adult commitments to state institutions; twice that of the State rate. Fresno County's commitment rate was also higher than the State average, although the differences were not too striking. For Kern County, commitments per 100,000 population approximated the State average, while San Diego, the contrasting urban county, committed fewer persons on a per capita basis than the other three counties. This would suggest either that alternatives to commitment in San Diego County are more widely exercised, or that the administration of justice is more severe in the predominantly rural, agricultural counties.

2. Juvenile

Juvenile commitments to state institutions by the Juvenile Court in the same counties also varied considerably, as the following table reveals. The rates, per 100,000 population, for the years 1946-47, were as follows:

COMMITMENT OF JUVENILES PER 100,000 POPULATION, 1946-1947

County	Male	Female	Total
State	11.3	1.1	14.3
Kern	24.2	5.3	29.5
Riverside	29.8	7.8	37.6
San Diego	10.8	5.1	15.9
Fresno	14.7	4.1	18.8

The total commitment rate of juveniles for all four counties was above that of the State average in 1946-47. However, San Diego's male commitment rate was below that of the State average, while its female commitments were almost five times that of the average for the State. Riverside County also had the highest juvenile commitment rate of the four counties. Kern County, with a two-year rate of 29.5, and Fresno County's rate of 18.8, fell between those of Riverside and San Diego. While these statistics are indicative of varying rates of juvenile commitment, they do not reflect any true differences in rates of crime and delinquency. It must be reasserted that the number of persons, both juvenile and adult, who are committed to state institutions is small when compared to the number of offenses known to law enforcement officers. Commitment to state institutions is but one of several alternatives available to the presiding judge when pleas or findings of guilt are reached. The granting of probation, suspending of sentence, or commitment to county jails, road camps, and forestry camps, as well as to juvenile detention homes, are other possible alternatives.

B. COMMITMENTS: OFFENSE, RACE, AGE, PRIOR RESIDENCE IN CALIFORNIA

The actual number of persons committed in the four counties during 1946 and 1947 was small.

	Adult		Juvenile	
County	Male	Female	Male	Female
Kern	123	5	92	20
Riverside	193	3	88	23
San Diego	265	7	117	55
Fresno	186	4	71	20

1. Offense

The breakdown of commitments to state institutions for both juveniles and adults by offense provides further illumination as to the nature of crime in these counties. For the two-year period 1946-1947, there were a total of 5,807 commitments in California. The following commitment statistics show state and county totals by specific offenses:

MALE COMMITMENTS TO CALIFORNIA STATE INSTITUTIONS FROM SUPERIOR COURT, 1946 AND 1947, DEPARTMENTS OF CORRECTIONS AND YOUTH AUTHORITY, COUNTY BY OFFENSES

County	Total	Homicide	Robbery	Assault	Burglary
State	5,807	356	1,183	256	1,122
Kern	123	16	23	6	24
Riverside	193	6	14	10	34
San Diego	265	5	71	4	74
Fresno	186	9	24	7	33

County	Theft	Forgery	Sex	Narcotic	Other
State	947	871	522	135	415
Kern	14	11	13	3	13
Riverside	35	39	35	5	15
San Diego	35	35	16	4	21
Fresno	30	42	20	8	13

The offenses of robbery, burglary, theft and forgery accounted in all instances for the largest number of offenders committed to state institutions. Sex offenses in Riverside County comprised 18% of the total commitment in the two years, 1946 and 1947—a percentage somewhat higher than the other counties. Kern County's homicide offenders accounted for 12% of their commitments—more than twice that of the other counties.

Crimes against property accounted for the following percentages of commitments in the four counties: Kern, 24.8%; Riverside, 73.7%; San Diego, 90.6%; and Fresno, 80.5%. For crimes against persons, Kern County committed 25.3%; Riverside, 26.3%; San Diego, 9.4%; and Fresno, 19.5%.

The breakdown of juvenile male commitments to the Youth Authority by offense reflects to some extent the common offenses by youths which result in punitive action. Of the offenses listed, three—*burgulary, auto theft* and *other theft*—comprise the large majority of offenses for which juveniles are committed. Within those three categories, more than 60% of all offenses were committed. For the State as a whole, the three categories of offenses accounted for 65.5% of all commitments of youth. In Kern County, these same offenses resulted in 60.8% of commitments; Fresno County, 84.5%; Riverside, 62.5%; and San Diego County, 71.7%. Of all offenses, these three —burglary, auto theft, other theft—were most numerous.

JUVENILE MALE COMMITMENTS TO THE YOUTH AUTHORITY FROM CALIFORNIA JUVENILE COURTS, 1946 AND 1947, BY OFFENSE GROUPS

County	Total	Homicide	Robbery	Assault	Burglary
State	2,159	8	150	99	521
Kern	92	3	5	6	23
Riverside	88	–	3	7	19
San Diego	117	–	2	5	38
Fresno	71	–	4	3	13

County	Auto theft	Other theft	Sex	Other Penal Code	W. & I. Code
State	518	377	115	127	244
Kern	14	19	4	5	15
Riverside	11	25	2	9	12
San Diego	29	17	6	3	17
Fresno	24	13	9	5	--

2. Race

Additional information which reflects the character and type of offender, as well as the administration of justice in these counties, is indicated by the statistical breakdown of the race of adult male commitments. The following table indicates such information for the State as a whole and for the counties in this study.

MALE COMMITMENTS TO CALIFORNIA STATE INSTITUTIONS FROM SUPERIOR COURT, 1946 AND 1947, DEPARTMENT OF CORRECTIONS, COUNTY BY RACE

County	Total	White	Percent	Mexican	Percent	Negro	Percent	Other
State	5,807	3,681	63.4	822	14.1	1,175	20.2	6
Kern	123	80	65.0	11	8.9	27	21.9	
Riverside	193	127	65.8	32	16.5	28	14.5	
San Diego	265	210	79.2	23	8.6	27	10.8	
Fresno	186	115	61.8	36	19.3	34	18.5	1

The proportion of white males committed to the Department of Corrections compares in all instances with the state average. San Diego County, as the table reveals, committed 79.2% white male adults, 15.8% higher than the percentage of commitments for the State as a whole. Its Negro commitments, on the other hand, were lower.

Whereas 14.1% of those committed in the State were of Mexican descent, two counties, Riverside and Fresno, had higher percentages of commitment. This latter fact doubtlessly reflects in part the ratio of Mexican persons in the county population, as well as prevailing community attitudes towards this nationality group.

Negroes accounted for 20.2% of the total state commitment. Only in Kern County was the percentage of Negro commitment exceeded.

The unquestionably disproportionate percentage of minority nationality and racial group commitments both in the State and for the four counties, leave many fundamental questions unanswered. It would be erroneous to assume that these minority group members are more antisocial or greater law violators than whites. Commitment statistics reflect but an insignificant percentage of total offenders, leaving no basis for valid and reliable generalizations. To derive valid generalizations would require comprehensive information on the race, nationality and religious affiliations of *all* offenders who committed offenses known to law enforcement officers; extensive examinations of the backgrounds, personal histories, and circumstances in the individual cases of *all* offenders; and an extensive examination of prevailing community attitudes towards minority nationality and racial groups as this in turn affects the administration of justice. This information is unavailable, and therefore such generalizations remain invalid and unfounded.

JUVENILE MALE COMMITMENTS TO YOUTH AUTHORITY, FROM CALIFORNIA JUVENILE COURTS, 1946 AND 1947, COUNTY BY RACE

County	Total	White	Percent	Mexican	Percent
State	2,159	1,233	57.1	601	27.8
Kern	92	43	46.7	30	32.6
Riverside	88	53	60.2	25	28.4
San Diego	117	68	58.1	37	31.6
Fresno	71	45	63.4	18	25.3

County	Negro	Percent	Other	Not reported
State	261	12	38	26
Kern	15	16.3	1	3
Riverside	7	7.9	3	
San Diego	6	5.1	2	4
Fresno	5	7.0	2	1

Although the percentage of white children who have been committed to the Youth Authority is no outstanding fact, the relatively large percentages of Mexican youth are. In the four counties under study, Negro youth accounted for a smaller percentage of commitments, as compared to the state average, with the sole exception of Kern County which has a large Negro resident population due to its cotton labor demands. In no sense can we conclude that any nationality, race or ethnic group is more criminal than any other segment of the population on the sole basis of these statistics. Nor can we interpret percentage of actual delinquency without parallel statistics of the population breakdown of these groups in the county. The multiple factors which influence the administration of justice from the processes of law enforcement through prosecution to the actual criminal judicial proceedings present so many variables that generalizations become invalid and meaningless.

3. Age

At what age level does criminality most frequently occur? The age of those persons who have been committed to our institutions from these four counties and throughout the State reflects to a limited extent, the area of our greatest problems. The median age of juvenile and adult offenders committed to state institutions throughout California for the years 1946 and 1947 was 27 years. The following table shows age group totals, of those committed throughout the State and from the four counties for 1946, 1947.

MALE COMMITMENTS TO CALIFORNIA STATE INSTITUTIONS FROM SUPERIOR COURT, 1946 AND 1947, DEPARTMENTS OF CORRECTIONS AND YOUTH AUTHORITY, COUNTY BY AGE AT ADMISSION

County	Total	Under 18	18-19	20	21
State	5,807	87	833	422	346
Kern	123	5	22	8	9
Riverside	193	4	30	14	15
San Diego	265	8	62	33	13
Fresno	186	2	17	8	13

County	22-24	25-29	30-39	40 and over	Median
State	823	982	1,285	1,029	27.0
Kern	19	15	23	22	24.8
Riverside	17	32	36	45	27.7
San Diego	27	33	51	38	23.9
Fresno	30	26	50	40	29.4

The above statistics on commitment ages reveal that approximately 44% of all offenders in 1946 and 1947 in

the State were under 25 years of age. For the State as a whole, the median age was 27 years.

In Kern County, 51.2% of those committed in 1946 and 1947 to the Department of Corrections or Youth Authority were under 25 years of age. In Riverside County, the number committed under the age of 25 years represented 41.4% of the total. San Diego County had 53.9% of the total commitments under 25 years, while Fresno County indicated the lowest percentage, 37.6% less than 25 years old.

The age of juvenile offenders at time of commitment is of importance not only because they reflect the counties' areas of juvenile problems by age, but also because it indicates the distribution and comprehensiveness of criminal and delinquent conduct. Youths between the ages of 16 and 17, inclusive, seem to account for the major portion of delinquents committed to Youth Authority facilities. For the State as a whole the median age of youthful juveniles committed to Youth Authority facilities was 16.1 years. In San Diego County, the median age of those committed is 16.2 years, almost the same as that of the State as a whole.

The following table shows commitment ages of juveniles by counties.

JUVENILE MALE COMMITMENTS TO YOUTH AUTHORITY FROM CALIFORNIA JUVENILE COURTS, 1946 AND 1947, COUNTY BY AGE AT ADMISSION

County	*Total*	*8-9*	*10-11*	*12*	*13*	*14*	*15*	*16*	*17*	*18-19*	*Median*
State	2,159	12	58	17	163	280	418	529	503	119	16.1
Kern	92	1	6	2	10	4	11	30	23	5	
Riverside	88	1		2	9	11	12	24	25	4	
San Diego	117	2	3	4	7	15	21	38	23	4	16.2
Fresno	71	1	1	2	5	9	15	19	15	4	

4. Length of Prior Residence in California

Another indication of the nature of California's known criminal offender population is reflected in their length of prior residence in California. Of those committed in 1946 and 1947 throughout the State, 43% had residence in California less than four years. The figures for the individual counties vary somewhat, but with the exception of Kern and Fresno Counties, a larger percentage of newcomers were committed than throughout the State as a whole.

MALE ADULT COMMITMENTS TO CALIFORNIA STATE INSTITUTIONS FROM SUPERIOR COURT, 1946 AND 1947, DEPARTMENT OF CORRECTIONS, COUNTY BY TIME IN STATE

County	*Total*	*Less 1 yr.*	*1 yr.*	*2-4*	*5-9*	*10 and over*	*Not reported*	*Less 1 yr.*	*10 yrs. and over*
State	4,942	794	415	924	635	2,160	14	16.1%	43.7%
Kern	105	15	9	17	22	42		14.3	40.0
Riverside	159	33	13	20	25	68		20.8	42.8
San Diego	179	43	13	25	28	70		24.0	39.1
Fresno	176	21	8	32	26	89		11.9	50.5

Of the San Diego commitments for 1946-47 period, those who had been in the State less than four years, equalled 45.1% of the entire total. Riverside had 41.4% of those committed residing in the State less than four years, while Kern County and Fresno County commitments indicated 38.9% and 34.5% respectively had four years or less residence in California. It might be possible to deduce that crimes are being committed by relative newcomers, rather than the stable population. But California's population in the first instance has grown 3½ million in the last decade (almost one-half as large as the 1940 population), and newcomers account for a sizeable proportion of its current population. Furthermore, the newcomer has not had a chance to establish roots in a given community, consolidate his friendships, and create strong feelings of belonging, all so necessary to wholesome citizenship. The difficulties and adjustments characteristic of mobility and migration sometimes help induce the violation of legal restrictions.

C. PROBATION RATES

Probation is more frequently granted following findings or pleas of guilt than prison sentences. This is especially true of juveniles and first offenders. The statistics which indicate the adult probation rates for 1946 and 1947 in the four counties were as follows:

1. Adult

ADULT PROBATION RATES PER 100,000 POPULATION, 1946-1947

County	*Men*	*Women*	*Total*
State	48.9	4.1	53.0
Kern	37.9	3.7	41.6
Riverside	67.4	8.8	66.2
San Diego	40.4	3.5	43.9
Fresno	48.1	4.4	52.5

Three counties—Kern, Fresno, and San Diego—had adult probation rates below that of the state average. Only Riverside County had probation rates higher than the state average. Comparisons of rates of adult commitment and adult probation for the four counties reveal the following: For every adult sentenced to a prison term in 1946 and 1947, Riverside County granted another offender probation; in the same years San Diego extended probation to approximately twice the number committed; Fresno County extended probation to adult offenders 1⅓ times as often as commitment; and Kern County had 1¼ times as many adult probations as those committed to state prisons. These indices reflect in part local attitudes on the administration of justice in the four counties.

2. Juvenile

The State's average for juvenile probation cases in 1946 and 1947 is high—144.7 per 100,000 population. Kern County had a juvenile probation rate more than three hundred per cent higher than the state average for the same years. Riverside County, with a rate of 194 per 100,000 population was also higher than the state average. San Diego and Fresno Counties used juvenile probation at rates considerably lower than the averages for the State. The statistics for juvenile probation for the four counties during 1946 and 1947 are as follows:

JUVENILE PROBATION RATES PER 100,000 POPULATION, 1946-1947

County	*Boys*	*Girls*	*Total*
State	106.0	38.7	144.7
Kern	343.9	113.5	457.4
Riverside	149.3	44.7	194.0
San Diego	85.5	40.3	125.8
Fresno	102.2	26.1	128.3

In all instances, juvenile probation was used in 1946 and 1947 more often than juvenile commitment to state institutions. The following is the ratio, per 100,000 population, of juvenile probationers to those committed to state institutions for the counties under study: Kern 15.5 to 1; Riverside 5.16 to 1; San Diego 7.9 to 1; and Fresno 6.8 to 1.

Greater use of community treatment programs through probation supervision, in contrast with the alternative of treatment in a state institution for juvenile offenders, reflects to a considerable extent community enlightenment of the potential effectiveness and desirability of probation.

The annual probation reports for San Diego, Kern, Fresno and Riverside Counties for the year 1947 contain a delineation of select characteristics of probationers, including family background, nativity of birth, race and offenses for which probation was granted. The following table indicates the number of new cases in each department by county:

PROBATION CASES REFERRED DURING 1947

County	*Juveniles*	*Adults*
Kern	569	202
Fresno	236	480
San Diego	2,942	488
Riverside	457	---

a. By Offense:

The reasons for the referral of juveniles is listed below in the following table for the year 1947:

Table 6. OFFENSES FOR WHICH JUVENILES WERE GRANTED PROBATION, 1947

Offense	*Kern*	*San Diego*	*Riverside*[1]	*Fresno*
Abandoned	--	--	9	3
No parental control	87	313	36 (incorrigible)	65
Destitute	2	7	66 (neglect)	1
Unfit home	31	260		3
Found wandering	1	1		3
Vagrancy	1	--	6	1
Refuses to obey	197	295	5 (bad associates)	3
Truancy	--	18	14	15
Danger of immorality	20	14		
Feeble-minded	2	2		
Auto theft	43	267	16	30 (grand theft)
Other theft	71		76	21 (petty theft)
Burglary	24		59	33
Robbery and hold up	3		4	6/4 (ass'lt-battery)
Rape and sex offense	21		36	2
Forgery	3		6	2
Liquor	19		18	8
Other (traffic, mischief, etc.)	54		2 (homicide) 7 (assault) 75 (traffic misc.)	36

[1] Riverside figures 1947-48.

b. Parental Status

The parental status of probationers provides enlightenment on the problem of delinquency. It is often said that broken homes cause crime and delinquency by sowing seeds of insecurity and feelings of want. These feelings are often compensated by delinquent behavior which gives the offender recognition and a sense of belonging.

While statistics on parental status are not available for all four counties, those from Kern and Fresno Counties are available and are given below:

	Living with both parents		*Living with one parent*		*Living away from both parents*	
	No.	*Percent*	*No.*	*Percent*	*No.*	*Percent*
Kern	322	56.7	161	28.3	86	15.0
Fresno (1946)	215	60.2	101	28.2	31	11.6
Fresno (1947)	125	52.9	78	33.0	33	14.1

These statistics indicate fairly high proportions of probationers from broken homes or no parental supervision.

c. Race

The nativity and race of new cases handled during the year reflects to some extent the problem children. In three of the four counties, such information is available.

	White		*Negro*		*Mexican*		*Other*	
County	*No.*	*Percent*	*No.*	*Percent*	*No.*	*Percent*	*No.*	*Percent*
Fresno (1946)	210	60.5	25	7.2	83	23.9	29	8.4
Fresno (1947)	150	63.5	11	4.6	68	28.8	7	3.1
Kern	380	74.0	47	9.1	86	16.7	--	--
Riverside	344	66.5	74	14.3	94	18.3	5	0.9

The unusually low percentage of Negro probationers for the three counties is significant. It does not carry with it generalizations that Negroes are less criminal or more criminal, but rather reflects the fact that probation is granted less frequently to Negro juveniles. This may, in part, reflect community attitudes towards minority racial groups.

VIII. LAW ENFORCEMENT PERSONNEL

A. SHERIFFS' OFFICES

The four counties differ in size, population, and law enforcement problems. They also differ in size of law enforcement personnel. The following table shows comparative personnel figures, and assignments of the sheriffs' offices in the four counties:

Table 7. PERSONNEL OR SHERIFFS' OFFICES IN 1948 OF FRESNO, KERN, SAN DIEGO AND RIVERSIDE COUNTIES

	April 1948 Fresno	*April 1948 Kern*	*(47-48) Riverside*	*(47-48) San Diego*
Total Personnel	49⅓	92	111	119
Jail Personnel	14⅓	10	18	19
Identification Bureau	4	5	2	–
Criminal Department	13	29	21 [1]	–
Civil Department	3½	6	5	–
Administration Department	2	2	2	2
Radio Division	1	4	5	6
Juvenile Division	0	2	2	1
Substation Division	0	11	26	–
Records and Clerical	2½	5½	14	10
Annual Published Report	No	No	Yes	Yes
Parole Officer	0	1	0	0
Civil Service	Yes	Yes	Yes	Yes
Population: Unincorporated territory [2]	130,396	139,456	60,761	96,917
Sheriff Department Personnel Ratio to population [3]	1:2608	1:1516	1:547	1:814

[1] Includes investigation and patrol personnel in Riverside County.
[2] Source: California Taxpayers' Association, *Tax Digest*, January, 1948.
[3] Includes clerical personnel.
Sources: Riverside County, Sheriff, *Annual Report, Fiscal Year Ending 1948* (1948).
San Diego County, Sheriff, *Annual Report, Fiscal Year 1947-48* (1948) and letter from San Diego Sheriff's Office, May 10, 1949.
California, Crime Commission on Adult Corrections and Release Procedures, *Report of Survey of Crime Facilities in Fresno County* (1948). This study compared Fresno and Kern County Sheriffs' Offices.

One index by which effectiveness of personnel can be measured is the ratio of population to law enforcement personnel. For 1947-48, Riverside County had 1 officer for every 547 persons. San Diego County had 1 per 814 persons in unincorporated territory. The ratios for Kern and Fresno Counties, as of May, 1948, were 1:1516, and 1:2608, respectively. These statistics were computed by dividing the number of persons on the sheriffs' staffs by the estimated population of the unincorporated area.

Two counties, Riverside and San Diego, published annual reports of their activities. The former was particularly commendable for its completeness of information. Fresno and Kern County sheriffs, although they make annual reports to the boards of supervisors, do not publish them.

In all counties, personnel are chosen by the civil service merit system.

Juvenile divisions exist in Kern and Riverside Counties, although their operations are modest in relation to the actual needs in the counties. Fresno and San Diego have no juvenile division as such, but use deputies for the interrogation, and accosting of juveniles.

B. POLICE DEPARTMENTS

The police departments of the major cities in the four counties vary in size and strengths. As of June 30, 1948, Fresno had 159 police department employees, Riverside, 66, and San Diego, 439. Bakersfield in April, 1948, had 75 members on its police department staff, which includes 7 civilians. The ratio of police department personnel to population is shown in Table 8.

The juvenile bureau or division of Fresno's police department consisted of 6 men and 2 women. Riverside had 3 officers for its juvenile detail, and San Diego, 13 officers in 1948. Available figures for Bakersfield indicate that their juvenile detail consisted of 2 officers in 1946.

Table 8. RATIO OF POLICE DEPARTMENT PERSONNEL TO POPULATION, FRESNO, BAKERSFIELD, RIVERSIDE AND SAN DIEGO, 1948

City	*Population (1948)* [1]	*Police Department Personnel* [2]	*Ratio of Personnel to Population*
Bakersfield	32,954	75	1:439
Fresno	76,601	159	1:482
Riverside	43,939	66	1:676
San Diego	362,754	439	1:827

[1] Sources: California, Department of Public Works, *Apportionment of Gas Tax Allocation to Cities, Fiscal Year 1949.*
[2] U. S. Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, Vol. XIX, No. 1, 1948.

C. CRIMES CLEARED BY ARRESTS

An index of law enforcement efficiency is reflected in the percentage of crimes cleared by arrests. For the Fiscal Year 1947-48, the Sheriff of San Diego County indicated 46.4% of all felony cases were cleared by arrests.[1]

Riverside County, for the same year, reported 57% clearance of actual felony cases.[2]

Kern County's Sheriff Department, in a survey conducted by the Commission on Adult Corrections and Release Procedures, was reported to have 76% of its 1947 cases cleared by arrests or recovery of stolen property. Although the report does not differentiate between Class I and Class II offenses, the statistics doubtlessly represent clearances by arrests for both felonies and misdemeanors.[3]

Fresno County's Sheriff Department, in 1947, only cleared 29% of its known felony and misdemeanor offenses.[4] This clearance record is the lowest of the four counties.

[1] San Diego County Sheriff's *Annual Report, 1947-48*, p. 5.
[2] Riverside County Sheriff's *Annual Report Fiscal Year Ending 1948*, p. 14.
[3] California Commission for the Study of Adult Corrections and Release Procedures, *Report of a Survey of the Crime Facilities of Fresno County Exclusive of Incorporated Cities* (1948) p. 2.
[4] *Ibid*, p. 2.

Table 9. OFFENSES CLEARED BY ARRESTS, FELONIES AND MISDEMEANORS IN 1947, SHERIFF'S OFFICES

County	Class I offenses known	Class I offenses cleared	Class I offenses cleared percent	Class II offenses known	Class II offenses cleared	Class II offenses cleared percent	Class I and II offenses cleared percent
Fresno	3,965 [1]	1,173 [1]	29% [1]				29%
Kern	3,310 [1]	2,520 [1]	76% [1]				76%
San Diego [2]	1,027	430	46.4%	1,319	[3]	[3]	—
Riverside [2]	911	519	57%	2,833	2,522	89.2%	81.2%

[1] Represents figures for both Class I and II crimes and arrests.
[2] Figures for San Diego and Riverside represents 1947-48 fiscal year period. Sources: See previous page, *ibid.*
[3] Information unavailable.

Similar data for municipal police departments are incomplete for Fresno, and Bakersfield. However, for the Fiscal Year, 1947-48, San Diego reported a total of 5,445 actual Class I offenses, of which 761 were cleared by arrests. The percentage of Class I offenses cleared by the San Diego Police Department was 13.9. Riverside City had 1,021 actual Class I offenses reported from July 1, 1947 to June 30, 1948. The number of cases cleared by arrests were 243, or 23.8%

For the calendar year 1947, Bakersfield reported 1,640 Class I offenses, and Fresno City, 3,066. The percentage of actual cases cleared by arrests in both of the latter cities is unavailable.

IX. PROBATION DEPARTMENTS PERSONNEL

The number of cases referred for probation is conditioned not only by the nature of the individual offense and offender, but also the attitudes of the judiciary, and the size and scope of services of the individual county's probation departments. One characteristic is true of all California probation—the case loads for both juvenile and adults is considerably higher than the accepted standard of fifty per probation officer. The overcrowding of the case load makes for poorer supervision, and less individual attention to the probationer. These conditions in turn may spell the difference between recidivism, on the one hand, and complete reformation of the individual juvenile or adult offender.

In the four counties in which our interest is expressed in this study, the size, activities and personnel of the individual probation offices varies considerably, according to population, immensity of geographical areas, and other pertinent conditioning factors.

The following is a breakdown of personnel in the Probation Departments of Kern, San Diego, Fresno and Riverside Counties.

For adults, four probation officers supervise approximately five hundred probationers. The case load and the tremendous distances that separate communities in Riverside County indicate greater needs for probation personnel.

Fresno County's Probation Department, according to the information provided by the supervising officer in the commission's meeting there, is also in need of additional personnel. The juvenile probation staff have an average case load of 250 cases per probation officer. This is five times the accepted case load standard recommended by the National Probation Association.

During 1947, the adult probation department had 435 active cases under supervision. For the supervision of these cases there were two full-time probation officers.

The experience of Kern County is similar to that of the others. Its case load is badly overcrowded, and supervision is difficult under these circumstances. The assistant probation officer in charge of juveniles indicated that there was a case load, in 1948, of 179 per officer. These figures of oversized case loads were in excess of three times the standard.

Table 10. PROBATION DEPARTMENT PERSONNEL, 1948, KERN, FRESNO, RIVERSIDE, AND SAN DIEGO COUNTIES

County	*Juveniles*			*Forestry camps and juvenile halls*					*Chief probation officer*
	Boys	*Girls*	*Adults*		*Intake*	*Records*	*Accounting*	*Psychologist*	
San Diego	7	8	5	16	5	10	5	1	1
Fresno	3	2	2	7 (Detention home)		6	1	1 (Part time)	1
Riverside	4	2	2	33 (Juv. halls) 12 (Forestry camps)	2	8	1	—	1
Kern	6	5	8	13		7	1	—	1

Kern County—*1948 Annual Report.*
San Diego County—*1947 Annual Report*
Fresno County—*1947 Annual Report.*
Riverside County—Letter from Chief Probation Officer.

A. CASE LOADS

San Diego's juvenile probation officers had the following average case loads in 1947. Women probation officers averaged 95 wards per month to supervise. The boys' division, consisting of six officers, handled 757 boys during 1947. Their case load statistics, although unavailable, are far in excess of the desired standards of fifty per officer.

Adult probation was granted to 245 men and women convicted of felony offenses in 1947 in San Diego County. In addition to supervision of these probationers, the adult division of the probation department made 563 presentence investigations. The total number of officers in the adult division was five.

In Riverside County, the probation officer informed the commission that there were in 1948 approximately 650 cases of juvenile probation. There are six juvenile probation officers. The overloading of cases is dramatically illustrated in the 150 cases requiring supervision by just one woman probation officer.

Kern County's adult probation division, comprising four officers, had to maintain supervision over 694 active cases, and were averaging 58 new investigations each month.

The probation needs for additional personnel to reduce the case loads to more manageable sizes are acute in all four counties.

All four counties were either planning for new juvenile halls, or had them recently constructed. In 1948, Riverside County built a new modern juvenile hall for its needs. The Kern County Probation Department had plans and financing approved for a new juvenile hall which would utilize modern concepts of construction and facilities.

There has been some discussion in both Fresno and San Diego Counties of constructing new juvenile halls. The needs for juvenile detention facilities in both of these counties are apparent.

X. DELINQUENCY PREVENTION

A. COORDINATING COUNCILS

Of the four counties, coordinating councils exist in Fresno and San Diego. The operation of the coordinating councils in San Diego is broad and comprehensive. In addition to its county coordinating council, there are over 25 local community councils.

In its quarterly bulletin, *The Coordinator,* the activities of the San Diego Coordinating Council are described. Of special interest to this study is the report and recommendation of the 1947 conference of delinquency prevention. The objectives for prevention and control of juvenile delinquency in San Diego were outlined as follows: [1]

Objectives of prevention indicated the following needs:

1. Need for children's protective association.
2. Need for State Department of Mental Hygiene Clinic (which was subsequently established).
3. Need for coordinating council assembly.
4. Need for extension of counselling and education program for parents.
5. Need for extension of recreation and youth organization program.
6. Need for better understanding of minority problems.

Objectives of control included the following needs:

1. Need for more foster homes.
2. Need for special officers to handle juvenile cases in all police departments and sheriffs' offices.
3. Need for more and better trained workers for delinquent and handicapped children.
4. Need existed for a 24-hour forestry camp.
5. Need for study of the gang problem.
6. Need for a branch office of the Youth Authority.

The extensive application of the San Diego County Coordinating Council program and the expression of interest in the local communities, doubtlessly reflect, in part, upon the diminution of delinquency in that county.

Kern and Riverside Counties do not have coordinating council programs.

[1] San Diego County Coordinating Councils, *The Coordinator,* Vol. VII, No. 1, Spring, 1947.

XI. POPULATION

Rates of criminality and delinquency for a specific locality must be weighed against many factors. One of these, population characteristics of age, sex, nativity of birth, and race is extremely basic. Rates of criminality within the general population, studies have shown, vary principally with age, sex, and racial distributions. The crime and delinquency rates for women, for example, is considerably lower than that of men. The ages during which criminality most frequently occurs is between 16-30. A disproportionate number of women and male persons below the age of 16 years would therefore tend to decrease the rate of crime within a community.

A. YOUTHS 5-18

Although a complete population census has not been undertaken since 1940, available information affords a limited breakdown of population characteristics. The number of youths, within the age category 5-18 years, can be fairly accurately estimated from current school enrollment statistics and those for 1940. The percentages of those in attendance for each age category in 1940, applied to 1948 attendance figures, provides a satisfactory index of total population within the 5-18 year age group. This has been done in the tables which have been compiled from data released by the State Department of Education.

The estimated population in 1948 of youths, 5-18 years, inclusive, for Fresno, Kern, Riverside and San Diego Counties based upon school attendance and readjusted for percentage attendance within each age group based upon 1940 census statistics is as follows:

Age	*Fresno*	*Kern*	*Riverside*	*San Diego*
5 years	6,223	6,601	4,311	17,327
6 years	6,836	6,130	3,942	9,459
7-13 years	37,362	22,803	15,527	35,058
14-15 years	6,997	4,691	4,428	9,950
16 years	3,018	2,578	1,910	4,656
17 years	2,691	2,380	2,943	4,870
18 years	3,437	2,425	3,012	2,808
Total, 5-18 years, 1948	66,834	47,608	36,073	84,128
Percent total population	27.7%	25.1%	24.4%	15.6%
Total estimated county population:				
1946-1947	241,200	189,900	147,700	540,950
Youth 5-18	66,834	47,608	36,073	84,128
Total below 5 years and over 18 years, 1948	175,366	142,292	111,627	456,822

For 1940, census data are available on attendance of youth from the ages of 5-17 years. Compared with the total population of each county in 1940, the following percentages are evident.

	Fresno	*Kern*	*Riverside*	*San Diego*
Population	178,565	135,124	105,524	289,348
5-17 years in school (1940)	34,995	27,421	20,086	45,174
Percent of total population 5-17 years attending school (1940)	19.5%	20.2%	19.0%	15.6%

Source: U. S. Census, 1940, Population, 2d Series, California.

Basis: (*Five Year Olds*) The 1940 census indicated that 37.6% of all five-year-old children attended schools. Using that as a basis, the number of kindergarten students were multiplied by 63% to ascertain the probable population of five-year-old children in the four counties in 1948. The statistics are as follows:

	Fresno	*Kern*	*Riverside*	*San Diego*
Kindergarten	2,340	2,482	1,621	6,515
63 percent	3,883	4,119	2,690	10,812
Total	6,223	6,601	4,311	17,327

Basis: (*Six Year Olds*) The 1940 census revealed that 85.9% of all children six years of age attended school. The enrollment statistics for 1948 in the first grade were tabulated and increased by 14% to arrive at the probable population distribution of six-year-olds in the four counties as follows:

	Fresno	*Kern*	*Riverside*	*San Diego*
1st grade	5,872	5,266	3,386	8,125
14 percent	964	864	556	1,334
Total	6,836	6,130	3,942	9,459

Basis: (*7-13 Years*) The 1940 census revealed that 98% of all children between the ages of 7-13 attended school. Applying that figure to current school population, the following population statistics were derived. Enrollment was taken from 2d to 7th grade, inclusive.

	Fresno	*Kern*	*Riverside*	*San Diego*
2d to 7th grade	36,615	22,347	15,216	34,357
2 percent added	747	456	311	701
Total	37,362	22,803	15,527	35,058
Total 5-13 years, 1948	50,421	35,534	23,780	61,844

Basis: (*14 and 15 Year Olds*) The 1940 census indicated that 96% of all 14- and 15-year-old residents attended school in 1940. Applying this to current enrollment for the 8th and 9th grades (where most children of that age group fall) we derive the following figures of population:

	Fresno	*Kern*	*Riverside*	*San Diego*
8th and 9th grades	6,717	4,503	4,251	9,552
4 percent added	280	188	177	398
Total	6,997	4,691	4,428	9,950

Basis: (*Sixteen years of age*) Population of 16-year-olds was computed on the basis of attendance of 91% in 1940, and the 1948 attendance of the tenth grade in each county was multiplied by 9%, to give the following results:

	Fresno	*Kern*	*Riverside*	*San Diego*
10th grade	2,746	2,346	1,738	4,237
9 percent	272	232	172	419
Total	3,018	2,578	1,910	4,656

Basis: (*Seventeen years of age*) Almost 80% of all 17-year-old youths attended school in 1940, according to the census of that year. Taking 1948 school population statistics and increasing it by 20% was the basis of the 17-year-old youth in the four counties. The enrollment in the eleventh grade was used.

	Fresno	*Kern*	*Riverside*	*San Diego*
11th grade	2,369	1,904	2,354	3,896
20 percent	592	476	589	974
Total	2,961	2,380	2,943	4,870

Basis: (*Eighteen years of age*) In 1940, only 50.7% of 18-year-olds attended school. The figure has been readjusted to 60% for 1948, in view of the increased enrollment, greater emphasis on professional training. The 12th grade enrollment was used as a basis.

	Fresno	*Kern*	*Riverside*	*San Diego*
12th grade	2,062	1,455	1,807	1,685
40 percent	1,375	970	1,205	1,123
Total	3,437	2,425	3,012	2,808

Table 11. ENROLLMENT OF KINDERGARTEN TO EIGHTH GRADE FOR THE SCHOOL YEAR, SPRING 1948, IN KERN, FRESNO, RIVERSIDE AND SAN DIEGO COUNTIES

(As of March 31, 1948)

Grade	*Fresno*	*Kern*	*Riverside*	*San Diego*
Kindergarten				
Male	1,220	1,271	797	3,317
Female	1,120	1,211	824	3,198
Total	2,340	2,482	1,621	6,515
1st grade				
Male	3,106	2,786	1,737	4,265
Female	2,766	2,480	1,649	3,860
Total	5,872	5,266	3,386	8,125
2d grade				
Male	2,622	3,335	1,489	3,406
Female	2,437	2,099	1,447	3,199
Total	5,059	4,434	2,936	6,605
3d grade				
Male	2,441	2,062	1,365	3,243
Female	2,347	2,012	1,325	3,051
Total	4,788	4,074	2,690	6,294
4th grade				
Male	2,400	2,018	1,381	2,912
Female	2,177	1,894	1,289	2,795
Total	4,577	3,912	2,670	5,707
5th grade				
Male	2,181	1,761	1,240	2,781
Female	2,104	1,707	1,180	2,714
Total	4,285	3,468	2,420	5,495
6th grade				
Male	2,061	1,708	1,178	2,616
Female	1,979	1,579	1,073	2,572
Total	4,040	3,287	2,251	5,188

7th grade	*Jr. Hi.*	*Jr. Hi.*	*Jr. Hi.*	*Jr. Hi.*
Male	1,163	837	1,576	23	572	598	743	1,813
Female	1,097	769	1,550	23	541	538	706	1,806
Total	2,260	1,606	3,126	46	1,113	1,136	1,449	3,619
8th grade	*Jr. Hi.*		*Jr. Hi.*		*Jr. Hi.*		*Jr. Hi.*	
Male	1,005	739	1,580	12	533	619	762	1,806
Female	1,040	749	1,503	17	452	542	729	1,663
Total	2,045	1,488	3,083	29	985	1,161	1,491	3,469

Total: 1-8 grades				
Male	19,775	17,132	11,509	27,664
Female	18,585	16,075	10,860	26,293
Total	38,360	33,207	22,369	53,957

Source: *California Schools* (California Department of Education) *Enrollment in California Schools by Counties on March 31, 1948* 19:181-195. June, 1948.

Table 12. ENROLLMENT IN NINTH-TWELFTH GRADES AS OF MARCH 31, 1948

Grade	*Fresno*	*Kern*	*Riverside*	*San Diego*
9th grade: Total	3,184	2,794	1,922	4,592
Male	1,638	1,391	1,000	2,282
Female	1,546	1,403	922	2,310
10th grade: Total	2,746	2,346	1,738	4,237
Male	1,331	1,196	897	2,054
Female	1,415	1,150	841	2,183
11th grade: Total	2,369	1,904	1,354	3,896
Male	1,228	997	648	1,896
Female	1,141	907	706	2,000
12th grade: Total	2,062	1,455	1,214	3,360
Male	1,057	717	609	1,675
Female	1,005	738	605	1,685
Total: 9th-12th grade	10,361	8,499	6,228	16,085
Male	5,254	4,301	3,154	7,907
Female	5,107	4,198	3,074	8,178

Source: California Department of Education, *Ibid.* on preceding page.

Table 13. SCHOOL POPULATION, 1940

School Attendance	*Fresno*	*Kern*	*Riverside*	*San Diego*
Persons 5 and 6 years old	5,601	4,769	3,413	7,390
No. attending school	2,827	2,609	1,683	4,856
Percent attending school	50.5%	54.7%	49.3%	65.7%
Persons 7-13 years old	20,580	16,503	12,042	26,021
No. attending school	20,195	16,175	11,749	25,422
Percent attending school	98.1%	98.0%	97.6%	97.7%
Persons 14 and 15 years old	6,658	4,859	3,795	7,956
No. attending school	6,426	4,694	3,668	7,727
Percent attending school	96.5%	96.6%	96.7%	97.1%
Persons 16 and 17 years old	7,040	4,909	3,776	8,238
No. attending school	5,547	3,943	2,986	7,169
Percent attending school	78.8%	80.3%	79.1%	87.0%

B. 1944 FARM POPULATION

The population of those living on farm dwellings in each county has been ascertained for the year 1944. That information, which was particularly affected by military service of eligible persons between the ages of 18-45 years, is also enclosed in this section.

Table 14. POPULATION CHARACTERISTICS OF PERSONS LIVING ON FARMS, 1944, KERN, FRESNO, RIVERSIDE AND SAN DIEGO COUNTIES

	Fresno	*Kern*	*Riverside*	*San Diego*
Farm population (persons living in occupied dwellings on farm)	44,875	17,258	19,785	18,096
Average persons per occupied dwelling	3.35	3.41	3.12	2.99
Under 14 years of age	13,273	5,836	5,149	4,411
Boys	7,039	2,959	2,620	2,187
Girls	6,234	2,877	2,529	2,224
Fourteen years and over	31,602	11,422	14,636	13,685
Men and boys	16,032	6,033	7,478	6,867
Women and girls	15,570	5,389	7,158	6,818

Source: U. S. Census of Agriculture (1945), Vol. I, Part 33, *California Statistics by Counties*, pp. 20, 21, 25.

XII. AGRICULTURE

Agriculture plays an important role in the economic lifeblood of California. Numerous California counties depend almost exclusively upon agriculture and its processed products for their principal sources of income. While more recent statistics indicate that California manufacturing and industry, in total value of products, currently exceeds agricultural production, the historical and actual importance of the latter remains outstanding and impressive.

California agriculture is unique in several ways. It is highly specialized, yet extremely diversified. There are an unusual preponderance of large scale farms which utilize countless thousands of seasonal laborers. Its agriculture is characteristically intensive, utilizing large numbers of laborers and machinery per acre, and highly seasonal.

California farms are highly capitalized, and farming is carried on in a preponderantly commercial manner, with a large number of absentee owners. Its sources of agricultural labor come largely from urban centers. Water needs are filled by irrigation on the majority of farms and agriculture is highly mechanized. In summary, California agriculture, contrary to systems and patterns of farming found elsewhere, is highly industrialized, seasonal and large-scale.

In 1945, California's agricultural production equalled almost one and one-half billion dollars. It utilized almost one-half million agricultural laborers on farms that had a total value of over three billion dollars. It produced commercially every major commodity grown elsewhere in the United States except tobacco, soy beans and peanuts. California produces all the domestic almonds, artichokes, raisins, olives and dried apricots, peaches, pears and figs in the United States.

A. INCOME

Of the four counties represented in this study, Fresno had the largest and most remunerative farm output in 1945. In terms of value of products, Kern County had the second largest argricultural production followed by Riverside and San Diego Counties in 1945.

The value of Fresno County farms, according to the 1945 census of agriculture, was approximately twice that of Kern County; in excess of twice the value of Riverside County farms; and approximately three times that of San Diego.

Agricultural production in the four counties, totaling more than 300 million dollars, represents a large proportion of the total annual wealth of the respective counties of Fresno, Kern, and Riverside. While San Diego's agricultural production of 25 million dollars in 1945 is significant, it contributes a less significant proportion of the total annual income than in the predominantly agricultural counties.

In 1945, the following agricultural incomes were realized by farms in Fresno, Kern, Riverside and San Diego Counties:

Value of	*Kern*	*Fresno*	*Riverside*	*San Diego*
products	$75,764,761	$104,364,007	$45,793,101	$25,930,723

Source: U. S. Census of Agriculture (1945).

Table 15. LAND ACREAGE

	Fresno	*Kern*	*Riverside*	*San Diego*
Crop land acreage	878,258	644,856	359,847	212,513
Harvested acreage	604,299	362,784	230,110	99,622
Irrigated crops	------	------	------	------
Orchards-vines	213,413	31,111	44,714	29,365
Woodland acreage	186,564	17,883	29,014	50,794
Value of farms	$224,938,184	$134,461,023	$101,411,845	$82,951,745
Value of livestock	$13,788,766	$16,600,030	$5,679,670	$6,262,906
Cattle, calves, No.	121,413	170,657	53,559	53,006
Hogs and pigs, No.	20,656	11,599	13,607	28,972
Sheep and lambs, No.	136,875	266,864	29,881	4,244
Chickens	496,522	152,146	534,023	410,341
Value of products	$104,364,007	$75,764,761	$45,793,101	$25,930,723
Livestock sold	5,302,883	9,644,922	3,505,347	3,263,932
Dairy products	7,423,486	3,299,004	1,644,216	4,636,607
Poultry and products	4,133,577	805,601	3,079,484	3,811,982
Other stock products	------	------	------	------
Field crops	18,938,319	41,537,772	8,248,126	1,415,492
Vegetables	4,644,439	3,531,337	3,743,134	1,832,608
Fruits and nuts	62,411,909	16,075,615	24,410,240	9,364,107
Other farm products	51,867	283,148	334,271	625,815

Note: The value of farms state-wide is $3,484,548,812. The value of products state-wide is $1,426,278,830.
Source: U. S. Bureau of the Census, *1945 Special Agricultural Census, California*, Vol. 1, No. 33.

In Tables 16 and 17, farms in each county are listed according to their total value of products in 1945. These tables also indicate the total agricultural production of farms within each of the census designated earning brackets. In all instances those farms with a total farm production of $10,000 or more accounted for at least two-thirds of the total county agricultural income for 1945. In Fresno County, farms with total production of $10,000 or more, accounted for 75.9% of the total county agricultural income. The same category of farms in Riverside County totaled 78.8% of agricultural production; in San Diego, 66%; and in Kern County, 93.2%.

Actually a small percentage of farms in each county in 1945 had incomes of $10,000 or more. The percentage statistics for the four counties of farms earning more than $10,000 in 1945 were: Fresno, 27.4% of farms (75.9% of income); Kern County, 43.3% of farms (93.3% of total income); Riverside County, 17.4% of farms (78.8% of farm production); and San Diego County, 10.5% of farm totaled 66% of agricultural income. By this index, the concentration of ownership and output of agricultral products is extremely high in Kern, San Diego, Fresno and Riverside Counties.

B. OWNERSHIP OF FARMS

Ownership of farms by residents in the four counties 1945 differed as Table 18 reveals. In Fresno, there were 7,083 full owners, of a total of 8,908 farm operators in 1945. The percentage of full ownership was 79%.

Riverside County's farms had 4,136 full owners of a total of 4,969 farm operators. Percentage of operation of farms by full owners in 1945 was 83%.

Similarly high proportions of full owners to the total number of farm operators is reflected in San Diego County statistics. Approximately 89% of all farm operators were full owners. Of a total of 5,296 farm operators, 4,748 were full owners.

Table 16. FARMS—TOTAL VALUE OF FARM PRODUCTS—1945

	Fresno	*Kern*	*Riverside*	*San Diego*
Total value, all products	$104,364,007	$75,764,761	$45,793,101	$25,930,723
$1- $999	517,568	178,075	695,429	992,608
1,000-1,499	472,139	124,985	503,568	641,458
1,500-2,499	1,885,933	305,388	1,015,462	1,058,045
2,500-3,999	3,138,046	650,072	1,646,142	1,358,923
4,000-5,999	5,804,229	1,282,802	2,055,580	1,800,214
6,000-9,999	13,269,560	2,597,978	3,755,573	2,953,535
10,000 and over	$79,276,532	$70,625,461	$36,121,347	$17,125,940
Percent of total:				
Farms $10,000 and over				
Percent of income	75.9%	93.2%	78.8%	66.0%
Percent of farms	27.4%	43.3%	17.4%	10.5%
Average value per farm, 1945	$11,891	$28,440	$9,302	$5,107
Average value per farm, 1940	2,919	8,339	2,851	2,102

Source: Census of Agriculture (1945).

Table 17. FARMS—CLASSIFIED BY TOTAL VALUE OF FARM PRODUCTS—1945

	Fresno (No.)	*Kern (No.)*	*Riverside (No.)*	*San Diego (No.)*
Under $250	544	168	658	872
$ 250-$ 999	867	310	1,179	1,707
1,000- 1,499	386	104	412	531
1,500- 2,499	910	153	529	551
2,500- 3,999	941	203	521	432
4,000- 5,999	1,178	259	426	372
6,000- 9,999	1,726	336	490	391
10,000-19,999	1,517	458	455	316
Percent of farms	16.7%	16.9%	8.9%	5.8%
20,000 and over	967	717	437	257
Percent of farms	10.7%	26.4%	8.5%	4.7%
Total	9,036	2,708	5,107	5,429
Percent of farms $10,000 and over	27.4%	43.3%	17.4%	10.5%

Source: Census of Agriculture (1945).

Table 18. OWNERSHIP—1945

	State	*Fresno*	*Kern*	*Riverside*	*San Diego*
Full owners	102,948	7,083	1,423	4,136	4,748
Part owners	14,106	886	509	436	274
Managers	4,742	203	103	252	222
All tenants	17,121	873	675	285	186
Cash tenants	9,057	251	405	120	100
Share-cash tenants	296	3	5	8	1
Share tenants croppers	4,012	420	137	116	22
Other specified tenants	3,756	199	128	41	63
Farm operators					
All white	136,279	8,908	2,660	4,969	5,296
All non-white	2,638	137	50	143	134
Value of farm property, dollars	$3,484,548,812	$224,938,184	$134,461,023	$101,411,845	$82,951,745
Farm dwellings and population total	538,672	44,875	17,258	19,785	18,016
Under 14 years	137,569	13,273	5,836	5,149	4,411
Boys	70,227	7,039	2,959	2,620	2,187
Girls	67,342	6,234	2,877	2,529	2,224
Over 14 years	401,103	31,602	11,422	14,636	13,685
Male	209,083	16,032	6,033	7,478	6,867
Female	192,020	15,570	5,389	7,158	6,818

Source: Census of Agriculture (1945).

In Kern County, full ownership is enjoyed by a lesser percentage of farm operators. There, only 52% of farm operators were full owners. Of a small total of 2,660 farm operators, 1,423 were full owners.

C. AGRICULTURAL SEASONAL LABORERS

California's intensive, specialized agriculture requires the services of additional seasonal workers during specific short harvest periods of the year. Without the services of these hand pickers, much of the perishable agricultural output would be lost, and serious economic crises would arise. Although mechanization has been increasing within recent years, these machines have not presently displaced the need for numerous skillful hand workers. The recent influx of cotton picking machines in both Fresno and Kern Counties, with a picking capacity per machine the equivalent of twenty to thirty hand pickers per day, points to the economical use of these latter machines, and the ultimate displacement of the need for large hordes of hand pickers.

Seasonal needs vary considerably in all counties so that peak seasons for harvesting find large numbers of workers influxing into the various counties in search of employment. Such statistics are presented herewith for recent dates in Tables 20-31.

In the following tables, there are included also a statistical breakdown of estimated employment under 18 years of age in the various counties, as well as estimated monthly employment in seasonal activities.

Table 19. FARM LABOR—1945

	Fresno	Kern	Riverside	San Diego
Farms employing family workers only	7,437	2,217	3,340	4,586
Farms employing hired workers only	1,861	937	1,323	886
Farms reporting, by cash wages paid				
$1–$49	94	32	171	239
50– 99	153	40	218	270
100–199	370	77	356	387
200–499	894	210	676	650
500–999	1,187	203	521	414
1,000 +	4,568	1,570	1,343	957
Farm operators, by age				
Under 35	1,299	418	468	436
35–54	4,396	1,406	2,513	2,947
55–64	2,133	549	1,242	1,236
Farm operators by residence, years on farm				
On farm operated	8,412	2,160	4,356	4,738
Not on farm operated	594	502	742	663
Years on farm				
Less than 5 years	2,378	799	1,759	1,884
5–9 years	1,678	493	870	904
10 years +	3,764	1,024	1,541	1,541
Average years on farm for State is 12 years.				
Facilities on farm				
Running water	8,357	2,301	4,312	4,822
Electricity	8,372	2,180	4,110	4,467
Radio	8,428	2,257	4,104	4,556
Telephone	3,627	1,252	1,894	2,167
Motor trucks, No.	4,199	2,506	2,853	2,386
Tractors, No.	5,626	3,388	2,769	1,921
Autos, No.	11,813	4,208	5,685	5,901

Source: Census of Agriculture (1945).

Table 20. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY TYPE OF WORKER—IN FRESNO COUNTY
For Each Month, March-December,* 1948

	High number of workers for each month						Low number of workers for each month	
		Type of worker						
		Hired temporary		Hired year round	Farmers and unpaid family workers			
Month	As of week ending	Total	Non-local	Local			As of week ending	Total
March	3-6	22,385	350	6,525	6,160	9,350	3-20	21,460
April	5-1	24,450	1,320	8,095	6,185	8,850	4-10	22,220
May	5-22	28,085	1,945	11,055	6,185	8,900	5-8	26,890
June	6-26	32,785	3,535	13,165	6,185	9,900	6-5	27,995
July	7-17	30,920	2,470	11,965	6,185	10,300	7-31	28,740
August	9-4	45,755	11,680	17,415	6,185	10,475	8-7	30,130
September	9-18	56,110	11,885	25,565	6,185	12,475	10-2	41,010
October	10-23	50,780	10,565	24,955	6,185	9,075	10-9	39,360
November	11-27	51,990	11,175	25,755	6,185	8,875	11-6	42,960
December	12-18	49,810	9,545	25,205	6,185	8,875	1-1	39,910

* Valid estimates for the months January and February are not available.
Source: State of California, Department of Employment.

Table 21. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY TYPE OF WORKER—IN KERN COUNTY
For Each Month, January-December, 1948

	High number of workers for each month						Low number of workers for each month	
		Type of worker						
		Hired temporary		Hired year round	Farmers and unpaid family workers			
Month	As of week ending	Total	Non-local	Local			As of week ending	Total
January	1-10	14,500	1,500	3,200	5,600	4,200	1-31	12,000
February	2-7	12,000	700	1,700	5,600	4,000	2-28	7,850
March	4-3	13,980	1,900	4,050	4,700	3,330	3-20	9,750
April	5-1	17,600	2,700	6,600	4,900	3,400	4-10	14,350
May	5-29	24,450	6,100	9,950	500	3,400	5-8	17,900
June	6-12	29,550	10,700	10,100	5,250	3,500	7-3	20,915
July	7-10	18,950	3,500	6,000	5,300	4,150	7-24	18,030
August	9-4	20,875	2,975	7,950	5,700	4,250	8-7	19,080
September	10-2	27,600	5,500	12,050	5,750	4,300	9-11	21,650
October	10-30	33,575	10,425	13,100	5,750	4,300	10-16	30,200
November	11-13	34,275	11,200	13,025	5,750	4,300	12-4	30,350
December	12-11	30,350	7,200	11,100	5,750	4,300	1-1	20,420

Source: State of California, Department of Employment.

Table 22. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY TYPE OF WORKER—IN RIVERSIDE COUNTY
For Each Month, January-December, 1948

	High number of workers for each month						Low number of workers for each month	
		Type of worker						
		Hired temporary		Hired year round	Farmers and unpaid family workers			
Month	As of week ending	Total	Non-local	Local			As of week ending	Total
January	1-31	17,880	2,620	1,900	5,700	7,660	1-10	15,500
February	2-28	18,185	2,750	2,025	5,740	7,670	2-21	17,675
March	4-3	18,820	3,135	2,275	5,740	7,670	3-6	18,640
April	5-1	18,485	2,650	2,425	5,740	7,670	4-10	18,795
May	5-29	18,785	2,700	2,675	5,740	7,670	5-8	18,560
June	6-12	19,260	2,900	2,950	5,740	7,670	6-19	18,835
July	7-17	23,560	5,175	4,325	5,850	8,210	7-10	21,860
August	8-7	19,935	3,100	3,125	5,800	7,910	8-21	17,485
September	10-2	18,235	1,800	3,025	5,740	7,670	9-11	17-685
October	10-16	18,185	1,900	2,875	5,740	7,670	10-30	17,785
November	11-6	17,485	1,700	2,375	5,740	7,670	11-27	17,135
December	12-25	17,585	1,900	2,275	5,740	7,670	12-11	17,485

Source: State of California, Department of Employment.

Table 23. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY TYPE OF WORKER—IN SAN DIEGO COUNTY
For Each Month, January-December, 1948

	High number of workers for each month						Low number of workers for each month	
		Type of worker						
		Hired temporary		Hired year round	Farmers and unpaid family workers			
Month	As of week ending	Total	Non-local	Local			As of week ending	Total
January	1-31	7,575	845	1,550	1,680	3,500	1-10	7,220
February	2-28	8,025	900	1,905	1,700	3,520	2-7	7,800
March	4-3	8,320	1,000	1,850	1,900	3,570	3-6	8,100
April	4-10	8,300	980	1,850	1,900	3,570	5-1	8,100
May	5-22	8,430	940	1,970	1,920	3,600	5-8	8,290
June	7-3	8,695	1,000	2,075	1,920	3,700	6-5	8,420
July	7-10	8,720	1,050	2,050	1,920	3,700	7-31	8,480
August	8-28	8,560	930	1,950	1,980	3,700	8-14	8,480
September	9-11	8,545	930	1,935	1,980	3,700	10-2	8,370
October	10-9	8,270	800	1,820	1,950	3,700	10-30	7,960
November	11-6	7,800	590	1,600	1,910	3,700	12-4	7,270
December	1-1	7,440	430	1,410	1,900	3,700	12-11	7,270

Source: State of California, Department of Employment.

Table 24. ESTIMATED MONTHLY EMPLOYMENT UNDER EIGHTEEN YEARS OF AGE IN AGRICULTURE BY TYPE OF WORKER—IN FRESNO COUNTY
March-December,* 1948

	Monthly employment high		Type of worker			
			Hired temporary		Hired year round	Farmers and unpaid family workers
Month	As of week ending	Total	Non-local	Local		
March	3- 6	120	50	20	---	50
April	5- 1	85	25	10	---	50
May	5-22	430	105	275	---	50
June	6-26	2,010	495	765	---	750
July	7-17	1,845	380	565	---	900
August	9- 4	4,990	1,135	2,855	---	1,000
September	9-18	10,440	3,330	5,105	---	2,005
October	10-23	6,365	2,035	3,605	---	725
November	11-27	6,675	2,195	3,855	---	625
December	12-18	5,900	1,520	3,755	---	625

* Valid estimates for January and February are not readily available.
Source: State of California, Department of Employment.

Table 25. ESTIMATED MONTHLY EMPLOYMENT UNDER EIGHTEEN YEARS OF AGE IN AGRICULTURE BY TYPE OF WORKER—IN KERN COUNTY

January-December, 1948

Month	Monthly employment high		Type of worker			
	As of week ending	Total	Hired temporary: Non-local	Hired temporary: Local	Hired year round	Farmers and unpaid family workers
January	1-10	700	50	100	200	350
February	2- 7	350	50	---	100	200
March	4- 3	650	150	50	200	250
April	5- 1	900	200	300	200	200
May	5-29	1,600	600	600	200	200
June	6-12	3,350	2,200	750	200	200
July	7-10	1,100	200	500	200	200
August	9- 4	780	100	280	200	200
September	10- 2	1,750	550	800	200	200
October	10-30	2,000	800	800	200	200
November	11-13	2,000	800	800	200	200
December	12-11	1,450	500	750	200	200

Source: State of California, Department of Employment.

Table 26. ESTIMATED MONTHLY EMPLOYMENT UNDER EIGHTEEN YEARS OF AGE IN AGRICULTURE BY TYPE OF WORKER—IN RIVERSIDE COUNTY

January-December, 1948

Month	Monthly employment high		Type of worker			
	As of week ending	Total	Hired temporary: Non-local	Hired temporary: Local	Hired year round	Farmers and unpaid family workers
January	1-31	830	45	160	145	480
February	2-28	860	100	125	145	490
March	4- 3	860	100	125	145	490
April	5- 1	860	100	125	145	490
May	5-29	860	100	125	145	490
June	6-12	860	100	125	145	490
July	7-17	2,445	900	700	145	700
August	8- 7	1,295	300	300	145	550
September	10- 2	860	100	125	145	490
October	10-16	860	100	125	145	490
November	11- 6	760	50	75	145	490
December	12-25	760	50	75	145	490

Source: State of California, Department of Employment.

Table 27. ESTIMATED MONTHLY EMPLOYMENT UNDER EIGHTEEN YEARS OF AGE IN AGRICULTURE BY TYPE OF WORKER—IN SAN DIEGO COUNTY

January-December, 1948

Month	Monthly employment high		Type of worker			
	As of week ending	Total	Hired temporary: Non-local	Hired temporary: Local	Hired year round	Farmers and unpaid family workers
January	1-31	600	---	50	50	500
February	2-28	600	---	50	50	500
March	4- 3	600	---	50	50	500
April	4-10	600	---	50	50	500
May	5-22	680	---	100	50	530
June	7- 3	780	---	150	50	580
July	7-10	780	---	150	50	580
August	8-28	710	---	100	30	580
September	9-11	685	---	75	30	580
October	10- 9	650	---	50	20	580
November	11- 6	620	---	20	20	580
December	1- 1	620	---	20	20	580

Source: State of California, Department of Employment.

Table 28. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY SEASONAL AND ALL OTHER AGRICULTURE ACTIVITIES—IN FRESNO COUNTY

March-December,[1] 1948

Seasonal agriculture activities [2]

Month	Date	Total agriculture employment	Number of workers	Crop employing greatest number of workers: Crop	Crop employing greatest number of workers: Workers	Employment in other agriculture activities
March	3- 6	22,385	1,000	Grapes and vineyards	500	21,385
April	5- 1	24,450	2,590	Lettuce	500	21,860
May	5-22	28,085	6,225	Peaches, including nectarines	1,750	21,860
June	6-26	32.785	9.925	Cotton	4,500	22,860
July	7-17	30,920	7,360	Apricots	2,000	23,560
August	9- 4	45,755	21,900	Grapes-raisins	15,800	23,855
September	9-18	56,110	32,250	Grapes-raisins	26,600	23,860
October	10-23	50,780	27,620	Cotton	20,100	23,160
November	11-27	51,990	29,530	Cotton	27,780	22,460
December	12-18	49,810	27,350	Cotton	24,000	22,460

[1] Good estimates for January and February are not readily available.
[2] The employment figures include the year-round and unpaid family workers as well as the temporary workers.
Source: State of California, Department of Employment.

Table 29. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY SEASONAL AND ALL OTHER AGRICULTURE ACTIVITIES—IN KERN COUNTY

January-December, 1948

Seasonal agriculture activities *

Month	Date	Total agriculture employment	Number of workers	Crop employing greatest number of workers: Crop	Crop employing greatest number of workers: Workers	Employment in other agriculture activities
January	1-10	14,500	3,500	Grapes and vineyards	2,000	11,000
February	2- 7	12,000	1,700	Potatoes	1,000	10,300
March	4- 3	13,980	2,150	Vegetables, miscellaneous	900	11,830
April	5- 1	17,600	5,300	Potatoes	2,500	12,300
May	5-29	24,450	11,850	Potatoes	7,100	12,600
June	6-12	29,550	16,950	Potatoes	11,050	12,600
July	7-10	18,950	4,450	Potatoes	2,000	14,500
August	9- 4	20,875	6,175	Grapes and vineyards	3,300	14,700
September	10- 2	27.600	15.900	Cotton	11,400	11,700
October	10-30	33,575	23,175	Cotton	20,400	10,400
November	11-13	34,275	23,875	Cotton	23,000	10,400
December	12-11	30,350	19,950	Cotton	19,000	10,400

* Employment figures include the year-round and unpaid family workers as well as the temporary workers.
Source: State of California, Department of Employment.

Table 30. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY SEASONAL AND ALL OTHER AGRICULTURE ACTIVITIES—IN RIVERSIDE COUNTY

January-December, 1948

Seasonal agriculture activities *

Month	Date	Total agriculture employment	Number of workers	Crop employing greatest number of workers: Crop	Crop employing greatest number of workers: Workers	Employment in other agriculture activities
January	1-31	17,880	3,670	Oranges	900	14,210
February	2-28	18,185	3,875	Oranges	1,300	14,310
March	4- 3	18,820	4,485	Oranges	1,500	14,335
April	5- 1	18,485	4,150	Oranges	1,400	14,335
May	5-29	18,785	4,450	Hay-alfalfa	900	14,335
June	6-12	19,260	4,925	Hay-alfalfa	900	14,335
July	7-17	23,560	9,225	Apricots	3,500	14,335
August	8- 7	19,935	5,600	Potatoes	1,000	14,335
September	10- 2	18,235	3,900	Vegetables, miscellaneous	8,000	14,335
October	10-16	18,185	3,850	Vegetables, miscellaneous	900	14,335
November	11- 6	17,485	3,150	Vegetables, miscellaneous	950	14,335
December	12-25	17,585	3,150	Vegetables, miscellaneous	1,000	16,585

* Employment figures include the year-round and unpaid family workers as well as the temporary workers.
Source: State of California, Department of Employment.

Table 31. ESTIMATED MONTHLY EMPLOYMENT IN AGRICULTURE BY SEASONAL AND ALL OTHER AGRICULTURE ACTIVITIES—IN SAN DIEGO COUNTY
January-December, 1948

	*Seasonal agriculture activities **					*Employment in other agriculture activities*
Month	*Date*	*Total agriculture employment*	*Number of workers*	*Crop employing greatest number of workers* — *Crop*	*Workers*	
January	1-31	7,575	1,005	Lemons	600	6,570
February	2-28	8,025	1,425	Lemons	640	6,600
March	4- 3	8,320	2,240	Lemons	680	6,080
				Tomatoes	700	
April	4-10	8,300	2,220	Lemons	700	6,080
				Tomatoes	700	
May	5-22	8,430	2,500	Tomatoes	600	5,930
June	7- 3	8,695	2,470	Tomatoes	550	6,225
July	7-10	8,720	2,495	Tomatoes	550	6,225
August	8-28	8,560	2,210	Beans	410	6,350
September	9-11	8,545	2,170	Celery	530	6,375
October	10- 9	8,270	1,775	Celery	550	6,495
November	11- 6	7,800	1,370	Celery	550	6,430
December	1- 1	7,440	1,410	Celery	490	6,030

* Employment figures include the year-round and unpaid family workers as well as the temporary workers.
Source: State of California, Department of Employment.

XIII. INDUSTRY: EMPLOYMENT AND ESTABLISHMENTS

Industrial activity supports a large proportion of the population and provides the necessary purchasing power, through wages and income, to sustain the economy. In all instances, California has experienced an expansion of industrial development as new markets, new industries and new plants are created in the West. Additionally, the discovery and economic exploitation of natural resources are constantly growing in importance in California. New oil fields and mineral deposits are being tapped and brought to the public and industrial market. While three of the counties in this study are predominantly agricultural in economic composition and importance, industry, manufacturing and food processing play significant roles in their particular local economy.

To adequately support the expanding population, work opportunities must coexist in both agriculture and industry. Curtailment of either of these activities will result in depressions, serious economic dislocation and deprivation. An economic recess, coincidental with the fundamental instability of the highly mobile population, may possibly reflect itself in increased crime and delinquency rates. Productive activity, on the other hand, providing employment for thousands of residents in each county, not only affords a more wholesome economic adjustment but also helps to provide the necessary financial support for local and state governmental activity. Sustained economic activity, therefore, is an important element in the well-being of a community.

The rapid expansion of industrial activities in the four counties is reflected in part by the increases in number of employees, annual pay roll and enlargement of existing plants from 1939 to 1946.

In 1939 Fresno County had 259 plants, employing 4,933 workers in manufacturing industries. The total annual pay roll was $5,298,891 in that same year. Statistics for 1946 industrial activity in manufacturing shows the growth within the seven-year-period. In 1946 there were fewer manufacturing plants—245, but the number of average wage earners was almost twice that of 1939, some 8,290 workers. The annual pay roll in Fresno County totaled five times the 1939 wages, 25 million dollars.

In the seven-year-period, 1939-1946, the number of retail stores in Fresno County reduced in number from 2,885 to 1,169, but the number of employees increased from 7,396 to 10,379. Similar increases in pay roll are evident: $8,165,000 in 1939 and $26,166,541 in 1946. Annual sales expanded from $78 million to $214 million.

Fresno County, in mid-March 1946, had a total employment in all industries of 35,507 workers in 3,327 industrial establishments. The taxable pay roll of 1946 amounted to more than 107 million dollars. For 1946 the average monthly insured employed equalled 43,685 persons.

Kern County in 1939 had 112 establishments in manufacturing industries with 1,295 wage earners. The annual pay roll for 1939 was more than 2 million dollars. In 1946, on the other hand, the number of manufacturing establishments was only 97, but employment rose to 3,179 workers. Total wages also increased perceptibly to slightly more than 9 million dollars. There were also fewer retail outlets in 1946—954, as compared to 1,948 in 1939. However, employment in retail rose from 5,370 in 1939 to 6,239 in March, 1946.

For the county as a whole in 1946, there were an average of 33,756 insured employees in all industries, with a total annual wage of $89,155,210.

Riverside County's 83 manufacturing plants in 1939 employed 1,496 workers for an annual wage of $1,770,324. In 1946 the same industrial group expanded both its employment and plants to 4,370 workers in 103 establishments. The total annual insured wages for 1946 in manufacturing were $10,296,950, a 600% increase over 1939.

Riverside's total employment in all industries accounted for 23,862 workers in 1939, with total annual wages of $55,025,763.

The industrial expansion of San Diego is equally impressive and marked. The number of manufacturing establishments grew from 282 in 1939 to 322 in 1946. The labor force in manufacturing industries similarly grew from 6,016 wage earners to 16,268 in 1946. Wages of $7,483,051 in 1939 were expanded to $45,188,032 in 1946.

For all industries San Diego had 83,918 insured workers in 1946, with a total annual wage of $211,013,213. This despite a decrease of employment from the previous year of 10,500 workers.

Table 32. EMPLOYEES, ESTABLISHMENTS, ANNUAL PAY ROLL, 1939 AND 1946, FOR SELECT INDUSTRIES

	Fresno	*Kern*	*Riverside*	*San Diego*
Manufacturing Industries				
No. of establishments				
1939	259	112	83	282
1946	245	97	103	322
Average wage earners				
1939	4,933	1,295	1,496	6,016
1946	4,270	1,570	1,886	6,117
Annual pay roll				
1939	$5,298,891	$2,036,027	$1,770,324	$7,483,051
1946	25,195,178	9,101,629	10,296,950	45,188,032
Wholesale Trade				
No. of firms.				
1939	341	189	148	351
1946	289	175	120	392
No. of employees				
1939	3,081	1,048	2,110	4,301
1946	3,626	1,538	1,110	4,739
Annual pay roll				
1939	$4,308,000	$1,785,000	$2,052,000	$5,411,000
1946	15,306,118	5,849,814	5,495,107	14,797,210
Retail Trade				
No. of stores				
1939	2,885	1,948	1,721	4,605
1946	1,169	954	830	2,659
No. of employees				
1939	7,396	5,370	3,556	12,375
1946	10,379	6,239	11,095	22,332
Annual pay roll				
1939	$8,165,000	$6,302,000	$3,761,000	$13,901,000
1946	24,371,981	17,356,626	13,914,387	55,483,106
All Industries				
No. of establishments				
1946	3,327	2,593	2,217	7,250
No. of employees				
1946	43,685	33,756	23,862	83,918
Annual pay roll				
1946	$107,838,064	$89,155,210	$55,025,763	$211,013,213

Sources: 1939 data from U. S. Census (1940).
1946 data on wage earners from U. S. Department of Commerce, Federal Security Agency, *Business Establishments and Taxable Payrolls Under Old Age and Survivors Insurance Program, 1st Quarter 1946, California.*
Annual 1946 payroll—California Department of Employment, *Reports 127.*

XIV. GOVERNMENT

Governmental response to community needs is an index of community awareness as well as a reflection of local resources and wealth. The healthy community is one whose government provides adequate services for the more fundamental aspects of community life, and additionally for its less fortunate citizenry.

A. EXPENDITURES

1. County

Considerable expenditures are outlaid in each of the four counties for the maintenance of government. For the Fiscal Year 1947 the following sums were spent in each of the counties:

County	Total cost of government [1]	Estimated per capita expenditure
Fresno	$18,997,402	$78.76
Kern	19,901,331	104.80
Riverside	11,728,265	79.41
San Diego	29,560,595	58.34

Source: California. State Controller, *Financial Transactions of Municipalities and Counties of California for the year 1947*, p. 206.
[1] Includes interest and payment of debts.

2. City

City governmental operations likewise entail considerable costs. For the major city in each county, the following total governmental costs were incurred in 1947:

City	Total cost of government fiscal year 1947	Estimated per capita expenditure 1947
Fresno	$3,309,783	$43.21
Bakersfield	1,313,631	39.87
Riverside	3,484,659	79.37 [1]
San Diego	14,815,238	40.82

Source: *Ibid.*, p. 52.
[1] Riverside's cost of government includes an expenditure of $1,617,332 for "public service enterprises" and outlays of $289,000 for "sanitation and promotion of cleanliness."

B. ASSESSED VALUATION

The total assessed valuation of property subject to local tax rates for the fiscal year 1947 is as follows:

County	Assessed valuation of property	Tax rate Inside	Tax rate Outside	Income from taxes and assessments
Fresno	$429,291,529	$1.25	$1.25	$10,992,453
Kern	399,351,180	1.95	2.00	14,518,082
Riverside	143,200,180	2.34	2.34	6,370,457
San Diego	393,525,920	1.98	1.98	13,778,889

Source: *Ibid.* on preceding page, p. 198.

C. INCOME: TAXES

The property tax is the most important single source of income for local governments. Additional revenue is derived from state and federal subvention and grants, licenses and permits, fines and penalties, privileges, rent of property, fees and commissions and interest on loans. Total governmental receipts for the 1947 fiscal year in the four counties totaled $32,173,974 in Fresno; $25,216,253 in Kern; $17,120,078 in Riverside County and San Diego had receipts of $47,406,316.

The major municipalities within these four counties had the following total property value subject to local taxes in 1947:

City	Value of property subject to taxes	Tax rate	Amount of general taxes levied
San Diego	$228,585,700	$2.05	$4,727,514
Fresno	75,677,665	1.928	1,436,250
Riverside	33,436,260	1.94	641,326
Bakersfield	49,285,985	1.645	810,754

Source: *Ibid.* on preceding page, p. 20.

XV. WELFARE

Community responsibility for those unable to provide the necessary economic means of self-support has become an accepted part of American culture. Since the passage of the Social Security Act in 1935 and as amended in 1939, categorical aid to the blind, aid to needy children, old age security and survivor's insurance have comprised four important categories of public welfare responsibility. Federal participation in the financing of these programs, on a matching basis with the states, has extended their coverage and increased allotments. General county relief remains exclusively locally financed and administered in California.

California allots several million dollars annually to assist its needy citizens. These financial aids are not merely acts of benevolence and generosity. They are founded upon the necessary precepts of humane and liberal consideration for the welfare of our fellow citizens, and steeped in the principle that the well-being of a community rests equally upon the welfare of its individual, though perhaps less fortunate citizens.

The application of this principle has its deterrent effects upon crime and delinquency. Not only does it help reduce the incidence of crime motivated by sheer economic necessity, but it also, and perhaps more fundamentally, strengthens family unity and balance, and modifies the feelings of insecurity attendant with economic deprivation. These are its effects despite the fact that welfare allotments are generally small.

The number of recipients of welfare assistance also provides an index of community's social and financial well-being. Eligibility requirements for public assistance prevent aid to many others in need. Welfare needs also reflect social disorganization in the community.

Welfare needs vary in Kern, Fresno, San Diego and Riverside Counties. The support of its citizens is costly but necessary. For its 1946-47 average population of 241,200, Fresno County provided old age assistance to 4,191 in 1947; aid to the blind to 150; aid to needy children in families to 548; 1,532 to children and 138 to children in homes and institutions and 818 on general home relief. In 1947 a total of 7,377 persons were aided through public welfare assistance.

Kern County's population of 189,900 for the same years, 1946-47, allocated old age assistance to 2,669 in 1947; 123 blind; 325 families for aid to needy children, 887 children at home; and 66 in institutions and boarding homes and 1,465 persons on general home relief. The total assisted were 5,535 persons.

In Riverside County a total of 1,762 persons received welfare assistance in 1947. Old age assistance was provided for 209 persons; 99 blind received aid; aid to needy children was provided for 184 families and 558 children; and 38 children in homes and general relief was granted to 674 persons.

San Diego, the largest county in terms of population, had the following number of recipients in 1947 receiving welfare aid: Old age assistance, 7,212; aid to the blind, 202; aid to needy children: Families, 546, children, 900; and children in homes, 239; and general home relief, 2,152. The total number of San Diego welfare was 11,751.

Per capita rates of those receiving welfare assistance for 1947-1948 per one thousand population for the four counties were as follows:

	1948	1947
Fresno	37.9	30.6
Kern	35.3	29.1
Riverside	15.1	11.9
San Diego	27.0	21.7

By these indices the welfare problem was smallest in Riverside County. The highest welfare rate was that of Fresno County. Kern County had the second highest rate, and San Diego, the third. Significant increases are evident for 1948 in all counties. In Fresno the per capita rate increased 7 persons per thousand in 1948 over 1947; in Kern County the increase was 6 persons per thousand; an increase of 4 per thousand occurred in Riverside County, while San Diego had an increase of slightly more than 5 persons per thousand. These increases reflect in part the changing economic situation, and also the increases in eligibility and population during the past years.

Expenditures in all counties were considerable. The financial support for all categories except home relief is provided by federal, state and county funds, on a matching basis. Local funds exclusively provide home relief. For the fiscal year 1946-47 Fresno's welfare budget (including state and federal appropriations) was $3,411,814. In Kern County the budget equaled $2,307,869. For Riverside County the budget was $2,510,065, while San Diego had a welfare budget of $5,575,588.

Table 33. RECIPIENTS: WELFARE BENEFITS: BY CATEGORY

	Old age assistance June		Aid to blind June		Aid to needy children: Family June		Aid to needy children: Children June		Aid to needy children: Homes inst. June		General home relief June		Totals June		Rates per 1,000 population June	
County	1947	1948	1947	1948	1947	1948	1947	1948	1947	1948	1947	1948	1947	1948	1947	1948
Fresno	4191	4652	150	181	548	779	1532	2066	138	194	818	1272	7377	9144	30.6	37.9
Kern	2669	3011	123	152	325	537	887	1397	66	74	1465	1550	5535	6721	29.1	35.3
Riverside	209	229	99	134	184	244	558	694	38	61	674	879	1762	2241	11.9	15.1
San Diego	7712	8765	202	252	546	908	900	1284	239	312	2152	3117	11751	14638	21.7	27.0

Source: California Department of Social Welfare, *Biennial Report, 1946-1948* (1948).

Table 34. OLD AGE SECURITY

FINANCES, JULY 1, 1947-JUNE 30, 1948

County	*Total*	*Federal*	*State*	*County*
Fresno	$2,542,410	$1,150,962	$1,160,642	$230,806
Kern	1,599,540	726,512	728,148	144,880
Riverside	2,196,581	996,539	1,001,628	198,414
San Diego	4,486,251	2,035,780	2,044,066	406,405

AID TO BLIND—FINANCES, JULY 1, 1947-JUNE 30, 1948

Fresno	$104,355	$40,129	$32,113	$32,113
Kern	85,179	33,197	25,991	25,991
Riverside	64,080	25,249	19,432	19,399
San Diego	137,054	53,219	42,260	41,575

AID TO NEEDY CHILDREN—JULY 1, 1947-JUNE 30, 1948

Fresno	$592,604	$146,549	$222,583	$223,471
Kern	384,462	99,434	148,368	141,659
Riverside	187,000	55,180	77,388	54,430
San Diego	550,654	116,102	185,033	249,518

COUNTY GENERAL HOME RELIEF

	Total
Fresno	$256,673
Kern	463,257
Riverside	89,831
San Diego	692,246

TOTAL WELFARE BUDGETS—1946-47, 1947-48

	1946-47	*1947-48*
Fresno	$3,411,814	$3,505,042
Kern	2,307,869	2,532,438
Riverside	2,510,065	2,537,492
San Diego	5,575,588	5,866,205

A. COMMUNITY CHEST SUPPORTED CASE WORK AGENCIES

An important supplement to public expenditures for welfare, is the necessary private agency services financed through voluntary contributions to the Community Chest. These latter agencies provide necessary welfare assistance to those who have not met residence requirements and to those persons in need of temporary social work advice and counselling.

The scope of private agency services, and size of Community Chest goals varied with each of the major metropolitan cities in the four counties. In the 1947-48 chest campaign, the following goals were set: San Diego, $720,-300; Riverside, $103,430; Fresno, $215,422; and Bakersfield, $140,000. Computed on a per capita basis, the chest goals were approximately as follows: San Diego, $2.00; Riverside, $2.35; Fresno, $2.80; and Bakersfield, $4.34.

San Diego achieved 86.5% of their goal in 1947-48; Riverside, 99.9%; Fresno, 94.4%; and Bakersfield, 70%. Of the actual funds raised, the following approximate per capita contributions were realized: San Diego, $1.80; Riverside, $2.34; Fresno, $2.70; and Bakersfield, $3.00.

Community chest contributions finance both group work and case work agencies, as well as a variety of miscellaneous public services. Actual expenditures for private case work agencies supported in part and or in full by chest contributions were as follows for 1947-48:

San Diego City

Agency	*Budget (1947-48)*
Catholic Welfare Bureau	$16,478
Children's Home Society	53,364
Family Service Association	46,377
Jewish Welfare Society	4,820
Total	$121,039

Riverside City

Agency	*Budget (1947-48)*
Arlington Welfare	$2,885
Catholic Welfare	5,250
Veterans Relief	375
Total	$8,510

Fresno City

Agency	*Budget (1947-48)*
Catholic Welfare Bureau	$13,755
Community Service Center	28,242
Fresno Relief Society	1,730
Jewish Benevolent Society	1,300
Salvation Army	22,418
Nutritional Home	18,072
Total	$85,517

Bakersfield [4]

Agency	*Budget (1947-48)*
Catholic Welfare Bureau	$10,700
Family Service Agency	10,246 [1]
Child Guidance Clinic	14,975 [2]
Veteran's Service Agency	11,812 [3]
Total	$47,733

[1] The Family Service Agency's entire budget was financed in 1947-48 by funds other than the Community Chest. Its 1948-49 budget was included in Community Chest appropriations.

[2] Only $90 of the Child Guidance Clinic's 1947-48 budget was contributed by Community Chest funds. For the current fiscal year, $6,690 was contributed to its support.

[3] The Veteran's Service Agency received $7,022 from the Community Chest in 1947-48.

[4] Also included in the 1947-48 Chest allocations were Salvation Army, $11,326; and Council of Social Agencies, $4,081.

Community chest expenditures for recreational and group work agencies are outlined in the subsequent section on "Recreation."

XVI. HEALTH

The quality and provisions for the maintenance of community physical and mental health are equally important as its social and economic stability. Health activities, which embrace the many varieties of preventive services, sanitation, tubercular care and education, care for the chronically ill, contagious disease prevention and control, health education, and facilities and personnel for the maintenance of mental health and hygiene, are a significant part of community activities and services.

Private medical care is often costly and expensive and not within the means of a portion of the less advantaged population. Therefore, the community must assume the responsibility for medical care by providing for public clinics, hospitals and preventive activities.

Biological and physical handicaps can and frequently do impede successful adjustments. Serious handicaps, robbing the child of the opportunity to successfully participate in normal activities, may revert his energies to unwholesome outlets for the purposes of gaining recognition and compensatory status. The resorting to illegal and socially undesirable pursuits, an aspect of which is delinquency, may be a by-product.

Debilitating diseases which prevent the wage earner from pursuing his occupation also create great strains on family unity and stability. These in turn affect individual adjustments within the family constellation, substituting insecurity and frustrations for more balanced living. In these terms, health is an important aspect in the deterrent fight against crime and delinquency.

During the 1947 Fiscal Year, the following expenses were incurred in the four counties for health and hospitals: Fresno County, $441,179; Kern, $828,731; Riverside, $128,296 and San Diego County, $409,925. (See Table 35.)

On a per capita basis, Fresno County spent $1.83 in 1947; Kern, $4.36; Riverside, $.87, and San Diego, $.76.

The tables in this section indicate comprehensive data on hospital facilities in the four counties (See Table 36); number of doctors, dentists, hygienists and nurses in the four counties (See Table 37); proposed hospital facilities in the four counties (See Table 38A) and statistics on the percentage of area need met with existing hospital services in each of the counties. (See Tables 39 and 40.)

The survey, *Hospital Facilities in California,* conducted by the State Department of Public Health, indicate an area need for Fresno of 81%; Kern, 27%; Riverside, 24%, and San Diego, 69%. The areas designated in the survey do not necessarily correspond to the exact political boundaries of each county, and include small portions of other contiguous counties. Statistics also show selected data for rural hospital needs in the four counties. (See Table 38B.)

Table 35. HEALTH AND HOSPITALS

Community Health Services—County Budget for Health Department, 1947

Item	*Fresno*	*Kern*	*Riverside*	*San Diego*
Health officer and health services	$56,878.25	$280,841.10	$80,174.22	$327,947.13
Tubercular care	205,207.56	217,331.55	--	53,612.36
Eradication of disease carriers	178,980.11	207,449.18	4,376.97	--
Sanitary service	113.34	25,846.15	43,300.15	14,704.71
Other expenses and outlays	--	97,263.21	445.17	13,661.63
Total health and sanitation	441,179.26	828,731.19	128,296.51	409,925.83

Source: California, Controller's Department, *Annual Report of Financial Transactions of Municipalities and Counties for the Year 1947.*

Table 36. HEALTH AND HOSPITALS

Number of Public and Private Hospitals in the Counties

Fresno County	*Code*	*Beds*	*Census*	*Admission*	*Out-patient visits*	*Gross plant valuation*	*Pay roll expenses*	*Supplies and materials*	*Other expenses*	*Full-time personnel*
Wesh-i-Ah Sanatorium, Auberry; est. 1929	A-7-8; C-3-14-17; F-3-4-5-9-11-12-13-17	116	105	112	7,338	$232,818	$117,529	$56,555	$2,558	64
Clovis Sanatorium, Clovis, est. 1938	A-8-9; C-12-13-15	15	7	580	--	10,000	14,000	8,000	--	10
Pleasant Valley Hospital, Coalinga, est. 1937	C-8-13-15	21	14	951	--	--	--	--	--	21
Fresno Community Hospital, Fresno, est. 1896	A-1-7-8-9; C-8-13-15; F-2-4-7-9-11-14-15-17-18	156	115	6,089	--	631,140	362,066	76,992	86,917	235
General Hospital of Fresno, est. 1904	A-1-2-3-6-8; C-3-13-15; F-1-4-5-6-8-9-11-12-13-14-15-16-17-18	547	452	7,483	28,650	--	644,002	190,940	12,359	400
St. Agnes Hospital, Fresno, est. 1929	A-1-7-8-9; C-7-13-15; F-4-9-14-17-18	98	88	4,298	--	--	--	--	--	118
Fowler Municipal Hospital, Fowler, est. 1942	C-4-13-15; F-17	10	7	509	--	--	--	--	--	--
Kingsbury Sanatorium, Kingsbury	C-10-13-15; F-11-15-17	20	784	--	--	--	--	--	--	12
Reedley Hospital, Reedley, est. 1938	A-8-9; C-8-13-15; F-11-17	30	25	1,337	--	--	--	--	--	24
Sanger Sanitarium, est. 1936	A-7; C-10-13-15; F-17	17	13	1,061	--	--	--	--	--	--
Selma Sanitarium, Selma, est. 1922	A-7-8-9; C-11-13-15; F-17	35	30	2,291	644	47,860	17,514	--	113,393	31

Table 36. HEALTH AND HOSPITALS—Continued

Number of Public and Private Hospitals in the Counties

Kern County	*Code*	*Beds*	*Census*	*Admission*	*Out-patient visits*	*Gross plant valuation*	*Pay roll expenses*	*Supplies and materials*	*Other expenses*	*Full-time personnel*
Kern General Hospital, Bakersfield, est. 1867	A-1-2; C-3-13-15; F-1-2-3-4-5-6-8-9-10-11-13-14-15-16-17-18	378	351	9,173	85,413	--	$995,750	$64,474	$187,746	511
Mercy Hospital, Bakersfield, est. 1913	A-1-7-8-9; C-7-13-15; F-3-4-8-9-11-14-15-17	100	76	4,174	974	--	--	--	--	150
San Joaquin Hospital, Bakersfield, est. 1910	A-7-8-9; C-11-13-15; F-2-4-6-7-8-9-11-15-17-18	43	28	1,218	--	--	--	--	--	47
Delano Hospital, Delano, est. 1926	A-9; C-10-13-15	30	17	972	--	--	21,327	9,677	26,417	18
Stony Brook Retreat, Keene, est. 1918	A-7; C-3-14-17; F-3-8-9-11-12-13-15-16-17	102	89	99	--	--	114,247	54,444	21,421	48
U. S. Naval Air Station Dispensary, Mojave, est. 1943	C-1-13-15; F-4-13-17	77	3	301	--	--	--	--	--	--
Rand District Hospital, Randsburg										
Ridgecrest Hospital, Ridgecrest, est. 1946	A-9; C-10-13-15; F-3-11-13-15-17-18	30	24	--	--	--	--	--	--	10
Tehachapi Valley Hospital, Tehachapi, est. 1934	A-1-8-9; C-10-13-15-16; F-4-6-9-11-13-17	16	11	1,366	14,317	--	24,528	11,254	13,133	13
Riverside County										
Riverside County Hospital, Arlington, est. 1893	A-1; C-3-13-15; F-2-4-5-6-8-9-10 13-14-15-16-17-18	343	221	2,077	7,166	--	393,369	--	135,217	300
Southern Sierras Sanatorium, Banning, est. 1913	C-10-14-17	35	16	41	--	--	--	--	--	--
U. S. Naval Hospital, Corona, est. 1941	A-1-2-3-9; C-1-13-15; F-3-4-5-6-8-9-11-12-13-14-15-16-17	2,800	904	6,591	--	--	--	--	--	1,630
Coronado Hospital, Inc., Coronado, est. 1942	A-1-9; C-8-13-15; F-4-9-17	29	15	685	--	88,512	44,852	12,322	6,597	--
Casita Hospital, Indio, est. 1936	A-7-8-9; C-10-13-15; F-4-6-8-9-11-13-17	26	8	788	13,678	90,353	59,155	13,597	30,754	24
Coachella Valley Hospital, Indio, est. 1928	A-7; C-11-13-15; F-4-13-17	30	19	1,181	--	--	--	--	--	--
Station Hospital, March Field	C-1-13-15; F-3-4-5-6-8-9-10-11-12-13-14-15-16-17	532	182	4,459	93,934	--	--	--	--	--
Riverside Comm. Hospital, Riverside, est. 1901	A-1-7-8-9; D-8-13-15; F-1-4-6-8-9-11-14-17-18	126	106	4,612	--	428,819	276,286	17,569	138,853	193
Sherman Institution Hospital, Riverside, est. 1911	C-1-13-18; F-5-9-13	58	10	113	31,261	--	--	--	--	4
Soboda Indian Hospital, San Jacinto, est. 1923	A-7; C-1-13-15; F-8-9-13-15-17	34	13	194	652	44,907	23,400	7,179	1,725	13

Table 36. HEALTH AND HOSPITALS—Continued

Number of Public and Private Hospitals in the Counties

San Diego County	*Code*	*Beds*	*Census*	*Admission*	*Out-patient visits*	*Gross plant valuation*	*Pay roll expenses*	*Supplies and materials*	*Other expenses*	*Full-time personnel*
Escondido Comm. Hospital, Escondido, est. 1933	A-1-7-8-9; C-10-13-15	20	16	589	--	--	$30,123	$9,021	$2,250	12
Scripps Memorial Hospital, La Jolla, est. 1924	A-1-7-8-9; C-8-13-15; F-4-9-11-14-15-17-18	56	45	16,358	--	$277,150	161,067	68,255	35,283	84
Elwyn Sanitarium, National City, est. 1913	A-8-9; C-12-13-15	10	8	415	--	--	--	--	--	12
Scripps Metabolic Clinic, La Jolla, est. 1924	A-7; C-8-13-18; F-4-6-8-9-11-13-14-15-17-18	36	30	1,451	3,141	344,571	190,703	72,384	22,173	60
Hillcrest Manor Sanatorium, National City, est. 1930	C-10-14-16	50	45	32	--	--	--	--	--	12
Paradise Valley Sanitarium and Hospital, National City, est. 1906	A-1-2-6-7-8-9; C-7-13-15; F-1-2-4-6-8-9-11-12-13-14-15-17-18	134	112	4,113	27,314	963,298	391,213	273,717	232,153	204
U. S. Naval Hospital, Santa Margarita Ranch, Oceanside, est. 1943	A-1-3; C-1-13-15; F-3-4-5-6-8-9-11-12-13-14-15-17-18	920	891	3,341	15,346	3,954,614	404,486	678,285	158,052	188
The Collier Park Hospital, San Diego, est. 1897	A-7; C-7-14-18	19	17	89	--	--	9,408	543	10,521	7
Family Hospital, U. S. Naval Air Station, San Diego, est. 1944	C-1-13-15; F-4-13-17	52	30	2,220	--	--	--	--	--	--
Fraser Hall Hospital, San Diego, 1936	A-7-8; C-12-14-18; F-3-9	25	22	146	--	--	35,000	10,500	7,500	18
Mercy Hospital, San Diego, est. 1890	A-1-3-6-7-8-9; C-6-13-15; F-2-3-4-6-8-9-11-14-15-17-18	325	287	12,679	1,573	406,214	636,116	112,056	411,247	527
San Diego County, General Hospital, San Diego	C-3-13-15	769	515	7,081	--	--	--	--	--	--
U. S. Naval Air Station, Dispensary, San Diego, est. 1918	C-1-13-15; F-4-13-17	199	92	5,491	--	--	--	--	--	--
U. S. Naval Hospital, San Diego, est. 1917	A-1; C-13-15; F-1-3-4-5-6-7-8-9-11-12-13-14-15-16-17-18	5,000	4,000	45,723	200,000	10,169,848	--	2,725,517	443,473	1,139
Vauclain Home, San Diego County, General Hospital, San Diego, est. 1918	A-1-2-8; C-3-14-17; F-1-2-3-4-5-6-9-11-12-13-14-15-16-17-18	192	162	197	1,583	--	--	--	--	--

Key to abbreviations and code symbols used in listing individual hospitals (B-1 to B-477):

A. Approvals—memberships:

1. American College of Surgeons
2. Residents AMA
3. Interns AMA
4. Interns CMA
5. Medical School
6. Nurses' training school
7. American Hospital Association
8. State Hospital Association
9. Blue Cross

C. Classifications:

1. Federal
2. State
3. County
4. Municipal
5. City-county
6. Church operation
7. Church affiliation
8. Nonprofit corporation
9. Other nonprofit
10. Individual
11. Corporation

Table 36. HEALTH AND HOSPITALS—Continued
Number of Public and Private Hospitals in the Counties

C. Classifications—Continued

12. Partnership
13. Short term
14. Long term
15. General
16. Mental
17. Tuberculosis
18. Special

F. Facilities:

1. Blood bank
2. Cancer clinic
3. Central supply
4. Clinical laboratory
5. Dental department
6. Electrocardiograph
7. Electroencephalograph
8. Medical library
9. Medical-record department
10. Mental hygiene clinic
11. Metabolism
12. Occupational therapy department
13. Outpatient department
14. Pharmacy
15. Physical therapy department
16. Social service department
17. X-ray diagnostic
18. X-ray therapeutic

Table 37. HEALTH AND HOSPITALS

Number of Doctors, Dentists, Hygienists and Nurses in Four Counties and Population per Doctor and Dentist

Professional personnel	*Fresno*		*Kern*		*Riverside*		*San Diego*	
	1946	*1947*	*1946*	*1947*	*1946*	*1947*	*1946*	*1947*
Physicians and surgeons	160	201	108	145	120	149	499	630
Population per registered doctor	1,440	1,253	1,696	1,355	1,191	1,022	1,086	856
Dentists	70	107	41	67	56	73	236	317
Population per registered dentist	3,214	2,430	4,487	3,134	2,464	2,133	2,038	1,522
Registered hygienists	--	1	--	4	--	2	--	23
Health nurses	(1948) 39		48		29		104	
Part-time nurses	7,162		4,427		5,115		5,334	

Source:
Original sources: California Board of Medical Examiners, Directory, 1946-1947. California Board of Dental Examiners, Directory, 1946-1947.
Population estimates: California Taxpayers' Association, *Tax Digest*. 26:35 (January, 1948).
Nurses: California State Department of Public Health. Bureau of Public Health Nursing, Correspondence, August 25, 1948, based upon preliminary January, 1948, county population estimates of California Taxpayers' Association, *Tax Digest* 26:35.
Note: The war estimates for medical service (urban) was 1 doctor per 1,500 population. The rural standard is 1 doctor per 1,000 population. (Source: *1944 Farm Foundation Conference on Medical Care and Health Services in Rural Areas*, 5p.).

Table 38A. HEALTH AND HOSPITALS

Proposed Hospital Facilities in Fresno, Kern, Riverside and San Diego Counties

County	** Estimated population*	*Location*	*Type facility*
Fresno	231,600	Fresno	Health center
		Coalinga	Auxiliary
		Reedley	Auxiliary
		Mendota	Auxiliary
Kern	171,000	Bakersfield	Health center
		Inyokern	Auxiliary
Riverside	139,000	Riverside	Health center
		Indio	Auxiliary
		Blythe	Auxiliary
		Palm Springs	Auxiliary
		Corona	Auxiliary
		Banning	Auxiliary
San Diego	552,800	San Diego	1 Health center 3 Auxiliaries
		Jacumba	Auxiliary
		Pomona	Auxiliary
		Julian	Auxiliary
		El Cajon	Auxiliary

* Population estimated by the California State Department of Public Health in connection with the allocation of funds under Ch. 1562, Statutes of 1947.
Source: California. State Department of Public Health, *Hospital Facilities in California*, rev. report, March 1948, p. 18-19.

Table 38B. HEALTH AND HOSPITALS

General Hospital Service Areas, California, 1947

Area	*Population*	*Intermediate percent of area need met*	*Rural percent of need met*
Fresno County			
1-24	137,361	19	--
R-25	10,804	--	0
R-27	52,692	--	8
Kern County			
1-30	128,817	73	--
R-29	15,317	--	100
R-30	17,073	--	62
Riverside County			
1-34	66,822	76	--
R-36	23,172	--	43
R-38	10,680	--	92
R-30	7,000	--	0
San Diego County			
1-36	403,114	31	--
R-42	69,744	--	17
R-43	79,946	--	15

Note: The regional areas for the hospitals in California do not necessarily correspond to the political boundaries of the counties.
Source: California. State Department of Public Health, *Hospital Facilities in California*, rev. report, March 1948, pp. 14, 16.

Table 39. HEALTH AND HOSPITALS

Local Hospital Beds per 1,000 Population, California Counties, for 1938, 1945

County	*County and city government*		*Private hospital*	
	1938	*1945*	*1938*	*1945*
Fresno	3.4	3.3 *	1.4	1.7
Kern	.8	2.7	.7	1.0
Riverside	3.0	2.7	1.4	1.5
San Diego	2.3	1.5	1.7	1.4

* No data report this year.
Source: *Journal of American Medical Association*, Hospital number, April 1947.

Table 40. HEALTH AND HOSPITALS

Number of General Hospitals With Number of Beds Available for General Care and Number of Physicians and Surgeons in Counties, 1946

County	*Number of hospitals*	*Bed capacity for acute illness*	*No. of physicians and surgeons*
Fresno	12	773	160
Kern	10	668	108
Riverside	11	623	120
San Diego	15	1,193	499
California total	346	27,525	9,793

Source: California. State Department of Public Health, *Survey of Hospital Facilities in California, Preliminary Report*, May 1947, p. 50, Table V.

XVII. EDUCATION

Education embraces a broad concept. The learning processes from infancy through adolescence and adulthood is a progressive cycle, all part of the formal and informal educational structure.

Within this structure, fundamental early responsibilities lie with parents in the home. Fundamentals of speech, proper conduct, acceptable social standards of mores, habits and behavior are imparted to the infant during this extremely important formative period often with varying degrees of success and failure. The occurrence of subsequent personality, emotional and educational difficulties rest squarely upon the effectiveness of early parental education and family strength.

More formal social training and education occurs in the public and private schools. Upon the successful completion of formal education, the levels of which vary with individual abilities and opportunities, the process is further enriched by practical experience in professional, commercial and other pursuits. Self-education then assumes greater responsibilities as adulthood and maturity prevails. It is this continuous process by which the individual raises the levels of his understanding and achievement.

Existing California law prescribes mandatory education up to and including the age of sixteen years. Local and state financial participation combine to provide wide varieties of courses and curricula for California students. Certain mandatory basic courses are offered throughout the State.

The level of educational training and achievement in this highly competitive society often marks the difference between a wholesome social and economic adjustment, and failure or mediocrity. Education, therefore, provides the basis in many instances, for future economic and professional success, and the background by which social and economic status and well-being can be realized.

To the students of the etiology of crime and delinquency, education contains other values. The school represents one of the early socializing experiences in the child's life. The school is also one of the fundamental agencies for the early detection of behavior difficulties and maladjustments of children. The quick and early recognition of behavior problems; their necessary and immediate referral to treatment and social work agencies; and effective treatment often will result in profitable prevention of future crime and delinquency. The need for increased child guidance activities is, at present, one of the major weaknesses of our educational structure throughout California.

Through beneficial and effective education, with competent teachers and administrators, group mores and social self-discipline can be successfully implemented and strengthened. Supplementary educational activities through the media of extra-curricular offerings, further strengthen successful social adjustments.

Education is one of the fundamental public responsibilities of our democratic system. The degree to which our citizenry is educated reflects itself in the well-being and strength of our democratic society.

A. ENROLLMENT IN PUBLIC SCHOOLS

Enrollment in the public schools for the four counties in 1948 is as follows: San Diego, total enrollment in grades from kindergarten to fourteenth, and including special classes—95,425; Fresno, 55,311; Kern, 51,912; and Riverside, 34,138. Computed on a county population basis, San Diego's 1948 public school enrollment totalled 20.75%; Riverside, 32.60%; Fresno, 26.46%, and Kern, 37.22%.

Grade school enrollment in the public schools is as follows: San Diego, 53,957; Fresno, 38,360; Kern, 33,207, and Riverside, 22,369. These enrollment figures include attendance from kindergarten through the eighth grade. To accommodate these classes, there are 67 grammar schools in San Diego; 38 in Fresno County; 33 in Kern County, and 42 in Riverside County. There is an average attendance per public school of slightly over 800 in San Diego; 1,100 in Fresno; 1,100 in Kern County, and 510 in Riverside County.

Private school enrollment in the counties is as follows: Fresno County, 586 students; Kern County, 203 students; Riverside County, 436 students, and San Diego County, 2,128 students. Private school enrollment in the four counties is not significant enough to affect the overall enrollment picture.

B. NUMBER OF SCHOOLS AND AVERAGE DAILY ATTENDANCE

The following table indicates the average daily attendance for each of the public elementary schools and high schools in the four counties:

Table 41. ELEMENTARY SCHOOLS, COUNTY AND TOWN—A.D.A. 1946-47
High Schools, County and Town—A.D.A. 1946-47

Elementary Schools		High Schools	
County and town	*A.D.A. 1946-47*	*County and town*	*A.D.A. 1946-47*
Fresno County			
Calwa	653	9-12 Grades	
Clovis	555	Caruthers Union	305
Coalinga	774	Central Valley U.	474
Firebaugh	772	Clovis U.	576
Fowler Union	597	Fowler U.	345
Fresno City	9,668	Kingsburg Jt. U.	347
Kingsburg Jt. U.	737	Sanger U.	639
Mendota Union	580	Selma U.	574
Orange Cove Jt. U.	597	Washington U.	405
Reedley Jt.	923		
Sanger	1,135	8 yr. high schools, grades 7-14	
Selma	1,390	Coalinga Union	660
		Fresno City	7,335
		6 yr. high schools, grades 9-14	
		Reedley Jt. Union	1,237
		6 yr. high schools, grades 7-12	
		Kerman Union	553
Kern County			
Arvin	1,077	4 yr. high schools, grades 9-12	
Bakersfield City	9,470	Delano Jt. Union	786
Beardsley	1,137	Wasco Union	445
Buttonwillow U.	592		
China Lake	634	6 yr. high schools, grades 9-14	
Delano Union	1,584	Kern County Jt. U.	7,664
Fairfax	544	Taft County Union	1,095
Greenfield U.	454		
McFarland U.	868		
Mountain View	864		
Richland	1,519		
Standard	1,231		
Taft City	1,653		
Vineland	670		
Wasco Union	1,329		

Table 41. ELEMENTARY SCHOOLS, COUNTY AND TOWN—A.D.A. 1946-47
High Schools, County and Town—A.D.A. 1946-47—Continued

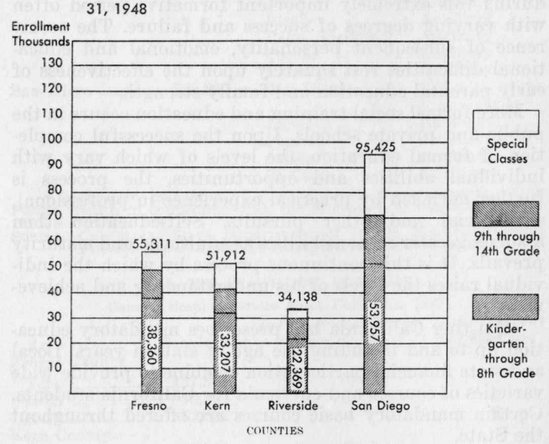
Elementary Schools		High Schools	
County and town	*A.D.A. 1946-47*	*County and town*	*A.D.A. 1946-47*
Riverside County			
Banning	932	4 yr. high schools, grades 9-12	
Beaumont	736	Coachella Valley	448
Coachella	613	Palo Verde Union	336
Corona	1,771		
Desert Palm Springs	827		
Elsinore Union	561	6 yr. high schools, grades 7-12	
Hemet Union	722	Hemet Union	630
Indio	1,300	Riverside City	4,109
Palo Verde Unif.	1,549		
Riverside City	4,478		
San Jacinto Unif.	466	Jr. Colleges, grades 13-14	
West Riverside	529	Riverside City	1,397
San Diego County			
Cajon Valley Union	1,714	4 yr. high schools, grades 9-12	
Carlsbad Union	544	Coronado Unif.	400
Chula Vista Union	1,860	Escondido Union	696
Coronado	1,321	Grossmont Union	2,035
Escondido Union	1,454		
Lakeside Union	455	8 yr. high schools, grades 7-14	
La Mesa Spring Valley	2,076	San Diego City	18,206
Lemon Grove	832		
National	2,207	6 yr. high schools, grades 9-14	
Oceanside	1,213	Oceanside-Carlsbad Union	873
San Diego City Unif.	24,152	6 yr. high schools, grades 7-12	
South Bay Unif.	673	San Dieguito Union	532
Vista Unif.	715	Sweetwater Union	3,333

The above table indicates the distribution of student population in the public schools of the four counties. Districts represent a combination of political and geographical areas. The greatest concentration corresponds to the concentration of population in the large metropolitan centers.

Financing of public school education for the four counties is as follows: The figures represent total education outlays for the year ending June 30, 1947.

Fresno County	$9,498,289.34
Kern County	9,326,008.96
Riverside	4,673,520.88
San Diego	12,986,674.35

Graph I: ENROLLMENT IN CALIFORNIA PUBLIC SCHOOLS IN FRESNO, KERN, RIVERSIDE AND SAN DIEGO COUNTIES AS OF MARCH 31, 1948



Source: California Department of Education, "Enrollment in California Public Schools, March 31, 1948" in *California Schools* 19:181-195, June, 1948, Sacramento.

Table 42. GRADED SCHOOL ENROLLMENT, MARCH, 1948

Grade	*Fresno* Male	Female	Total	*Kern* Male	Female	Total	*Riverside* Male	Female	Total	*San Diego* Male	Female	Total
Kindergarten	1,220	1,120	2,340	1,271	1,211	2,482	797	824	1,621	3,317	3,198	6,515
1st Grade	3,106	2,766	5,872	2,786	2,480	5,266	1,737	1,649	3,386	4,265	3,860	8,125
2nd Grade	2,622	2,437	5,059	2,335	2,099	4,434	1,489	1,477	2,936	3,406	3,199	6,605
3rd Grade	2,441	2,347	4,788	2,062	2,012	4,074	1,365	1,325	2,690	3,243	3,051	6,294
4th Grade	2,400	2,177	4,577	2,018	1,894	3,912	1,381	1,289	2,670	2,912	2,795	5,707
5th Grade	2,181	2,104	4,285	1,761	1,707	3,468	1,240	1,180	2,420	2,781	2,714	5,495
6th Grade	2,061	1,979	4,040	1,708	1,579	3,287	1,178	1,073	2,251	2,616	2,572	5,188
Grade School and Junior High												
7th Grade	2,000	1,866	3,866	1,599	1,573	3,172	1,170	1,079	2,249	2,556	2,512	5,068
8th Grade	1,744	1,789	3,533	1,592	1,520	3,112	1,152	994	2,146	2,568	2,392	4,960
Total	19,775	18,585	38,360	17,132	16,075	33,207	11,509	10,860	22,369	27,664	26,293	53,957

Source: "Enrollment in California Public Schools, March 31, 1948," in *California Schools* 19:181-195, June, 1948.

Table 43. ENROLLMENT IN HIGH SCHOOL, JUNIOR COLLEGE AND SPECIAL CLASSES, MARCH [1]

Grade	*Fresno* Male	Female	Total	*Kern* Male	Female	Total	*Riverside* Male	Female	Total	*San Diego* Male	Female	Total
9th Grade	1,638	1,546	3,184	1,391	1,403	2,794	1,000	922	1,922	2,282	2,310	4,592
10th Grade	1,331	1,415	2,746	1,196	1,150	2,346	897	841	1,738	2,054	2,183	4,237
11th Grade	1,228	1,141	2,369	997	907	1,904	648	706	1,354	1,896	2,000	3,896
12th Grade	1,057	1,005	2,062	717	738	1,455	609	605	1,214	1,675	1,685	3,360
Total	5,254	5,107	10,361	4,301	4,198	8,499	3,154	3,074	6,228	7,907	8,178	16,085
Total 13th and 14th Grades	352	226	578	836	276	1,112	664	224	888	926	308	1,234
Total Special Classes [2]	3,063	2,949	6,012	4,745	4,349	9,094	910	942	1,852	9,568	14,581	[3] 24,149

Source: [1] "Enrollment in California Schools, March 31, 1948" in *California Schools* 19:181-195, June, 1948.

[2] Special Classes include the following:
(1) Ungraded children in elementary schools.
(2) Classes for physically handicapped children and minors.
(3) Compulsory continuation classes.
(4) Special pupils in high schools, junior colleges.
(5) Classes for adults, high schools and junior colleges.

[3] This figure includes an adult enrollment in special high school classes of 18,068.

C. GUIDANCE AND WELFARE SERVICES

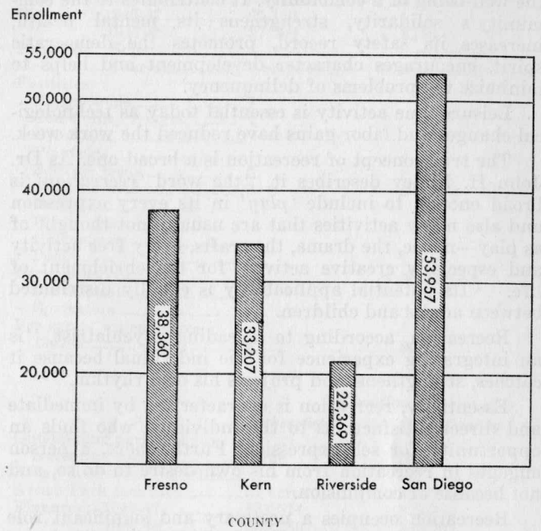
School systems within the four counties have limited personnel for the important tasks of child welfare and guidance. From available information, several counties, large in geographical area, rely upon one attendance officer to handle the many problem cases within the county schools system. This is obviously an area of great need and expansion in the public schools.

For the four counties under study, the following personnel are assigned to guidance, counselling and child welfare services:

County	*Personnel*
Riverside (1945)	1 attendance officer
	1 research and guidance
Riverside City	2 attendance and supervisors
	1 guidance and counselling
Kern (1946)	4 supervisors child welfare and attendance
Bakersfield	4 child welfare and guidance in West Bakersfield H.S.
	1 full-time attendance officer in East Bakersfield H.S.
	2 child welfare and attendance officers in Bakersfield Elementary School District
Fresno (1947)	3 child welfare and attendance officers
Fresno City	2 attendance officers
San Diego (1943)	3 attendance officers
San Diego City	Guidance Department includes:
	1 director
	3 psychologists
	3 attendance counsellors
	5 attendance officers
	1 psychiatrist

Sources: Youth Authority Surveys of Riverside, Kern and Fresno Counties, San Diego—National Probation Association Survey of San Diego.

Graph II: TOTAL GRADED ENROLLMENT K-8TH GRADE OF KERN, FRESNO, RIVERSIDE AND SAN DIEGO COUNTIES FOR THE SCHOOL YEAR, SPRING, 1948



XVIII. RECREATION

Recreation plays a wholesome and important part in the well-being of a community. It contributes to the community's solidarity, strengthens its mental health, increases its safety record, promotes the democratic spirit, encourages character development and helps to minimize the problems of delinquency.

Leisure-time activity is essential today as technological changes and labor gains have reduced the work week.

The true concept of recreation is a broad one. As Dr. John H. Finley describes it, "the word '*recreation*' is broad enough to include '*play*' in its every expression and also many activities that are usually not thought of as play—music, the drama, the crafts, every free activity and especially creative activity for the enrichment of life." [1] Its potential applicability is equally distributed between adults and children.

Recreation, according to a leading psychiatrist, "is an integrating experience for the individual because it catches, strengthens, and projects his own rhythm." [2]

Essentially, recreation is characterized by immediate and direct satisfactions to the individual who finds an opportunity for self-expression. Furthermore, a person engages in recreation from his own desire to do so, and not because of compulsion.

Recreation occupies a necessary and significant role in the prevention of delinquency. It is axiomatic that a child whose energies and mental attention are absorbed in group and individual activities is a less likely prospect for delinquent behavior than one whose energies are not channeled wholesomely. It is often the failure of local governments to provide for these needs which increase ultimate social and financial costs in delinquency, breakdown of mental health and needless debilitating accidents.

A significant finding of the Gluecks' research on 500 delinquent women was that only 9.7% of them had any constructive recreation at any time of their lives.[3] Studies by the Chicago Recreation Commission and others have emphasized the same points. But caution must be exercised in the interpretation of the effectiveness of recreation in the prevention of delinquency. In and of itself, recreation will not prevent delinquency. But as an important segment of a well-planned community program, it is a valuable element in the battle against delinquency. Dr. Henry W. Busch has aptly described it when he stated:

> "Don't expect recreation to stem or reverse the antisocial forces of an unplanned society, but look to it to illuminate personal and social life and to make the world a somewhat better place in which to live." [4]

Recreation must be coordinated and diversified to afford opportunities for leisure-time activities to both children and adults. Cultural activities are as essential as play lots, parks and golf courses. The stimulation of hobbies is as much of a requisite as the organization of athletic tournaments. The organization of intercultural and interracial group activities fit equally well into the pattern of needed recreation as does the use of school gymnasiums at night. In short, recreation is broad, comprehensive, and aimed towards the participation and well-being of the largest number of people who want to avail themselves of these opportunities.

The four counties in this study indicate varying needs and interests in recreation. In Kern County, a recreation commission provides over-all planning, coordination and stimulation of recreational projects. In Fresno and Riverside Counties, recreational activities are limited to the principal cities with little, if any, recreation in the smaller cities and rural communities. San Diego City has an extensive, well-planned program which served over 4½ million people in 1948. Facilities, organizations and budgets in the four counties vary considerably, indicating few similarities in services.

Table 44 presents in considerable detail an outline of recreational facilities in the four counties. The table contains detailed information on finances, personnel, facilities, area and the number of persons served. The information was gathered from available sources of the California Recreation Commission.

On a per capita basis, the expenditures for recreation in 1947-48 for the following cities are: San Diego, $2.96; Bakersfield, $1.07; Riverside, $.96, and Fresno, $.95. By the index of per capita expenditures the City of San Diego was the highest for the Fiscal Year 1947-48, followed by Bakersfield, Riverside and Fresno. Informal evaluation of facilities, administration, program and participation in recreational services in the four counties results in similar classifications; i.e., San Diego, Bakersfield and Kern County, Riverside and Fresno.

Table 44. RECREATIONAL FACILITIES IN SAN DIEGO, KERN, RIVERSIDE AND FRESNO COUNTIES, 1948

	San Diego County	
	City of San Diego	*County of San Diego*
Outstanding park and recreation bonds	$2,058,125	None
Area: Recreation facilities	69 acres	Unavailable
Area: Park facilities	2895.09 acres	543.28 acres
Finances: 1946-47	$1,005,649	$34,490
1947-48	$1,074,479	$54,241
Personnel: Supervisors	15 aquatics	3 life guards
Others	168 Rec. leaders	21 life guards
Facilities		
Playgrounds	38	
Community centers	24	
Gyms	5	1
Playfields	13	
Softball fields	18	
Tennis courts	44	
Parks	49	
Picnic areas	15	
Golf courses	1	
Pools	2	1
Persons served	4,795,312	121,000
Participants	3,649,655	121,000
Spectators	1,095,727	
Per capita expenditures 1947-48	$2.96	

Source: California *Recreation Commission Reports.*

[1] (*Recreation* Nov. 1933, p. 367.)
[2] ("Recreation and the Social Integration of the Individual" in Proceedings of the Twenty-second National Recreation Congress, National Recreation Association, N. Y. 1937).
[3] (Dr. Sheldon T. Glueck and Dr. Eleanor T. Glueck, *Five Hundred Delinquent Women,* Alfred A. Knopf Co., New York, 1934.)
[4] (Dr. Henry W. Busch, "Contributions of Recreation to the Development of Wholesome Personality" in *Recreation,* October 1933, p. 11.)

Table 44. RECREATIONAL FACILITIES IN SAN DIEGO, KERN, RIVERSIDE AND FRESNO COUNTIES, 1948—Continued

	Riverside County	
	Corona	*Riverside City*
Outstanding park and recreation bonds	None	None
Area: Recreation facilities	4 acres	14 acres
Area: Park facilities	20 acres	173.4 acres
Finances: 1946-47	$12,764	$50,666
1947-48	$15,042	$42,104
Personnel: Supervisors	1 director	2 full time
Others	8 part time	9 part time
		23 added part time
Facilities		
Playgrounds	3	3
Community centers	1	1
Gyms	1	
Playfields	2	1
Softball fields	2	6
Tennis courts	4	8
Parks		3
Picnic areas	1	3
Golf courses		
Pools	1	3
Persons served	30,000 (est.)	Unavailable
Participants	15,000	Unavailable
Spectators	15,000	Unavailable
Per capita expenditures 1947-48	$1.64	$0.96

	Fresno County	
	Fresno City	*City of Coalinga*
Outstanding park and recreation bonds	None	None
Area: Recreation facilities	339.03 acres	24 acres
Area: Park facilities	167 acres	10 acres
Finances: 1946-47	$94,594	$18,000
1947-48	$76,005	$20,500
Personnel: Supervisors	2 supervisors	1 supt.
Others	30-40 junior leaders	1 (arts) 3 (rec. ldrs.)
Facilities		
Playgrounds	8	1 (school)
Community centers	3	1 (school)
Gyms		None
Playfields	8	None
Softball fields	36	1
Tennis courts	32	4 (school)
Parks	3	
Picnic areas		
Golf courses	1	
Pools	12 wading pls.	1 (wading)
Persons served	1,402,898	72,758 (est.)
Participants	1,122,211	park attendance
Spectators	280,687	
Per capita expenditures 1947-48	$0.95	$4.09

	City of Selma	*City of Reedley*
Outstanding park and recreation bonds	None	$4,000
Area: Recreation facilities		5½ acres
Area: Park facilities	3½ acres	5½ acres
Finances: 1946-47	$5,140	
1947-48	$7,500	$750
Personnel: Supervisors		1 supervisor
Others	5 play ldrs.	2-rec. ldrs
Facilities		
Playgrounds	1	
Community centers	1	
Gyms		
Playfields		4
Softball fields	5	6
Tennis courts	3	2
Parks		
Picnic areas		
Golf courses		
Pools	1	1
Persons served		No record
Participants		
Spectators		
Per capita expenditures 1947-48	$1.21	$0.19

	Kern County	
	Bakersfield	*Kern County*
Outstanding park and recreation bonds	None	None
Area: Recreation facilities		
Area: Park facilities	57 acres	1,797 acres
Finances: 1946-47	$31,574	$29,349
1947-48	$35,280	$39,204
Personnel: Supervisors	2 supervisors	1 director
Others	11 playgd. dir. 9 asst. dir. 6 swimng. inst. 3 puppetry inst. 12 others	
Facilities		
Playgrounds	7	78
Community centers		16
Gyms	5	10
Playfields		26
Softball fields	9	
Tennis courts	20	42
Parks	5	39
Picnic areas	14 fireplaces	43 fireplaces 26 barbecues
Golf courses		4
Pools	3 (sum. only)	4
Persons served	Unavailable	Unavailable
Participants		
Spectators		
Per capita expenditures 1947-48	$1.07	

A. PRIVATE GROUP WORK AND RECREATION SERVICES

Community chest contributions help to finance many recreational services for both youths and adults. The following group work and recreational services were financed by community chest funds either in part or in full in the four major cities of San Diego, Riverside, Fresno and Kern Counties during 1947-48:

San Diego City Agency	*Budget (1947-48)*
Armed Services Y.M.C.A.	$314,915
Boy Scouts	32,344
Camp Fire Girls	15,312
Clay Ave. Y.W.C.A.	10,039
County Y.M.C.A.	12,500
Girl Scouts	24,751
N. E. Branch Y.M.-Y.W.C.A.	14,588
Y.M.C.A.	98,119
Y.W.C.A.	130,211
Total	$652,779

Riverside City	
Arlington Community Center	$710
Boy Scouts	19,500
Community Settlement	9,960
Girl Scouts	5,650
Y.M.C.A.	19,870
Y.W.C.A.	23,770
Total	$79,460

Fresno City Agency	*Budget (1947-48)*
B St. Community Center	$13,520
Catholic Youth Organization	10,885
Fresno Youth Center	18,794
Girl Scouts	15,370
Boy Scouts	51,700
Y.M.C.A.	46,620
Y.W.C.A.	40,073
Fresno State College Religious Conference	2,400
Total	$199,362

Bakersfield	
Boy Scouts	$37,308
Camp Fire Girls	13,592
Carver Y.M.C.A.	8,370
Y.M.C.A.	16,644
Y.W.C.A.	10,000
Total	$85,914

XIX. SOCIAL PROBLEMS

A. INTRODUCTION

Social problems confront all communities. The dynamics of modern society result in great social change, with its equal counterpart of resistance to change. There is constant social upheaval as the impact of new ideas, new problems, new conflicts eventually resolve themselves in social assimilation. In the process, new problems arise to tax the ingenuity and combined intellectual and practical genius of our representatives, administrators, scholars and citizens. From this process of social interaction and conflict resolve new and bolder solutions and progress. Social problems, therefore, provide the stimulus for new ideas, new methods, new social vision.

The problems of California are many. Its rapidly expanding population is translated in personal instability, restlessness, as well as a pioneer spirit.

Its agricultural economy demands the services of thousands of homeless, rootless, socially disadvantaged migrant workers.

It has housing problems of great import, and more recently has been experiencing rising unemployment.

Its facilities are overcrowded and its social resources are being taxed.

It needs more teachers, doctors, child guidance specialists and psychiatrists, schools, hospitals, clinics and prisons.

These are but a few of the characteristic problems of this State which are reflected in our local communities. These are some of the problems of Kern, Riverside, San Diego and Fresno Counties.

B. MOBILITY

Mobility and migration historically have been and contemporarily are distinctly characteristic California problems. The large rapid increase of population, and the many paths of migration within California are characteristic. Within the last decade California has grown considerably, adding almost 3½ million people. These persons represent different sections of the country, diverse cultural and ethnic backgrounds and a variety of contemporary resources and abilities. The assimilation of so large a population growth has been difficult and taxing. Shortages of housing, public and private facilities and diminishing work opportunities exert great strains on the State.

Mobility and migration are distinct social problems which materially reduce the effectiveness of community controls. The structure of community mores, so painstakingly built up over a period of years, is weakened and altered. Moral solidarity is also weakened, and our standards of right and wrong diffused. There is a concomitant loss of social responsibility and advantage is taken of the break in social custom.

Mobility also increases psychological isolation, builds mental strain and creates fertile ground for mass instability.

The three agricultural counties, Riverside, Kern, and Fresno, which seasonally absorb thousands of agricultural migrants annually, feel the impact in a particularly striking manner. Where large homeless groups congregate for temporary employment on the agricultural ranches of the county, the incidence of personal and property crimes increase. Testimony of the Sheriffs of Riverside, Kern and Fresno Counties in the public meetings of this Commission lend emphasis to that point.

The increasingly large proportion of inmates in our state prisons who have had less than four years' residence in California also reflects in part the problem.

From 1940-1946 Kern County increased in population by almost 50,000 new residents. Fresno County's increase was equally outstanding—approximately 63,000 persons. For Riverside County the increase totaled nearly 40,000 additional residents. Similarly, in San Diego County the increase represented a percentage total of 87% and an additional population of 251,000 persons.

San Diego has a particular problem, not only in the immensity and rapidity of its population growth, but also in its sizeable mobile military complement. The latter group characterizes to a considerable extent the social effects of extreme mobility.

Excessive mobility and migration are characteristic social problems confronting the four counties in varying degrees of seriousness. The extent to which its deleterious effects can be controlled depends in part upon community response to social needs and stability of employment and residence.

C. UNEMPLOYMENT

Briefly, unemployment and poverty create anxiety within the family constellation, deprive the family and children of social status by reason of economic need and often create emotional and physical deprivation. Through these specific effects which vary according to individual and family strengths, unemployment and poverty help to induce anti-social behavior.

The problem of unemployment in the four counties varied in 1947. The agricultural counties, because of drought conditions in the farm lands, found themselves with large numbers of unemployed and completely destitute farm workers. Their ineligibility for local relief stipends accentuated the problem and taxed private welfare facilities in the predominantly agricultural counties.

During the slack seasonal labor period in April 1947, there were 24,753 unemployment insurance claims in Fresno County. In January 1947, the only month for which statistics are available, veterans unemployment insurance claims totaled 9,856. Assuming that the claims for April 1947 were similar to those of January, the total of veteran and other unemployment claims for Fresno County equaled 34,609 persons. An accurate estimate of total unemployment can be derived by adding 30% to the known figure of claimants.[1] The total unemployed, in categories for which there is unemployment insurance coverage, therefore, would be approximately 49,442 persons in April 1947 for Fresno County. This latter figure includes only part of the agricultural labor force, many of whom are not covered by unemployment insurance benefits. Agricultural unemployment equaled at least 20,000 persons.

Kern County's peak month for unemployment claims was August 1947. In that month there were 16,111 claimants. An estimate of 3,000 veterans in that month would raise the total to 19,111. Assuming that known claimants

[1] This formula was suggested by the California Department of Employment.

represent only 70% of the unemployed labor force in insurance covered industries, the total unemployed during August 1947 in Kern County would be 27,101. To this total must be added at least 50% of the resident agricultural labor force which would equal at least 15,000 workers.

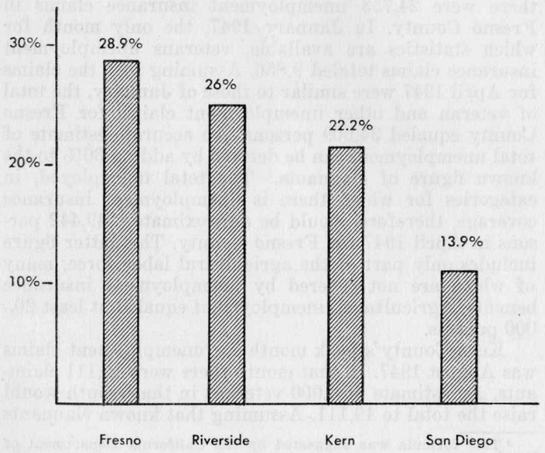
Riverside County had the peak number of unemployment insurance claimants in December 1947. At that time there were 13,102 insured unemployed and 6,517 veterans receiving payments. The total of veteran and civilian claims was 19,619 persons. Enlarged by 30%, the total would be approximately 28,207 persons unemployed in industries and occupations covered by insurance. The unemployed resident agricultural laborers would be in the vicinity of 10,000 persons, making a total unemployed in Riverside County in December 1947 of 38,207.

San Diego's unemployment in 1947 reached its peak in April 1947. At that time there were 36,074 claimants receiving insurance payments. In addition, there were an estimated 15,000 veterans who were drawing money under the Servicemen's Readjustment Act, for a total of 51,074 unemployed. Increased by 30% for unknown claimants, makes the total 72,948. Agricultural unemployment of residents equaled approximately 1,500 persons. The total unemployed in agriculture and industry, therefore, totaled an estimated 74,448 persons in April 1947 in San Diego County.

On a percentage basis, the estimates of unemployed persons in various months of 1947 compared to the total population are as follows in the four counties: Fresno County, 28.9%; Kern County, 22.2%; Riverside County, 26% and San Diego County, 10.8%. (See Graph.) By the index of these percentages of unemployment, Fresno County had the most serious problem in 1947, and San Diego, the lightest.

Another index of unemployment and need can be derived from welfare statistics. As previously indicated in the section on "Welfare," Fresno County extended assistance to 7,377 persons in 1947; Kern County, 5,535; Riverside County, 1,762 and San Diego, 11,751. In Fresno County for the year 1947 there were 30.6 welfare recipients per thousand population; Kern, 29.1; Riverside, 11.9 and San Diego 21.7 persons per 1,000 population.

Percentages of Total Estimated Population Unemployed in 1947, Fresno, Kern, Riverside and San Diego Counties



Increased problems of displacement of agricultural labor are foreseen in the rapid development and more extensive recent uses of mechanized farm equipment. The mechanized cotton picker, with an individual picking capacity of from twenty to thirty hand pickers per machine, is now being used quite extensively in the San Joaquin Valley area. The California Agricultural and Livestock Joint Legislative Committee report indicated that 300 to 400 machines were used in the 1948 cotton harvest and many more were on order. This report also cited statistics on both costs and picking capacities of these machines:

> "An unpublished report on the operation of 17 machines in the (San Joaquin) Valley during 1947 indicated that each machine picked about six hundred sixty pounds of seed cotton per hour on first picking * * * the equivalent of from twenty to thirty hand pickers per machine. The cost of picking, taking into consideration the cotton left in the field and the reduction in value as the result of mechanical picking, averaged $2.19 per cwt. as against $3.50 per cwt. for hand picking, or a saving of $1.31."[1]

These mechanical cotton pickers are a reality which are already displacing farm labor. The experiments in agricultural engineering now being conducted at the California College of Agriculture, Davis, foresee the ultimate development of great varieties of mechanical pickers for other crops. Fruit pickers, sorters and graders are now in the experimental stage.[2]

The future impact of these new mechanized farm implements upon agricultural labor demand will be considerable.

D. HOUSING NEEDS, OVERCROWDING, URBAN AND RURAL SLUMS

Critical housing shortages exist throughout California. The increases in both population and new families have resulted in increased housing needs in virtually all counties of the State. The Joint Senate-Assembly Committee on the Housing Problem, in its 1947 report to the Legislature, estimated that "the *minimum* number of dwelling units needed to provide California's urban families in 1947 with housing of minimum standards of safety, sanitation and decency is 743,568."[3] Not included in the 743,568 units, are additional units required in rural areas to house migratory farm workers and families desiring to build permanent residences on their own farms, the committee stated.[3]

In addition to housing shortages in this State, there are extant many units of substandard dwellings in both rural and urban areas.

The overcrowding of several family units within a house with normal capacity for one family, and the continued uses of deteriorated housing facilities in slum areas have several unfortunate effects. It induces family conflicts; weakens family solidarity; retards personal development; facilitates the destruction of social ideals, and increases emotional problems. Slums also encourage the unwholesome alliances against law enforcement officials and weakens the social fiber.

In all four counties, both rural and urban slums are extant. The dilapidated, primitive housing facilities that the commission eyewitnessed on a tour of Fresno County migrant labor facilities in December 1948 have their counterparts in other agricultural counties of the State. The recent report of the Joint Legislative Committee on Agriculture and Livestock Problems offers ample documentation of these conditions.[1]

The fringe area of Fresno's West Side district, in which several thousand Negro families reside in tents, shacks made from odds and ends, and one-room "houses" without adequate sanitary facilities are but samples of state-wide conditions.

In Bakersfield the counterpart to the west side section of Fresno is the Cottonwood district. These facts, quoted from the December 2, 1948, edition of the Bakersfield Californian, bear eloquent testimony to conditions there: "Some 6,000 persons live in the (Cottonwood) congested area with as many as 18 persons in two rooms, in shelters without windows, and in tents huddled on vacant lots. This district in the southeast section of Bakersfield has no sewerage and no garbage disposal system.

"Approximately 35% of the cases of poliomyelitis at Kern General Hospital have come from Cottonwood Road and adjacent areas where blight conditions exist and more than one-half of the cases of Greater Bakersfield area are from this section. Diarrhea cases also show numerously in the same blight areas of Greater Bakersfield.

"Hundreds of children live in the area with no parks, playgrounds, and they go for the most part to homes without adequate heat, light, air or sleeping room."

A 1948 survey of Riverside's east side, conducted by the Riverside Council of Church Women, revealed similar conditions to that of Fresno and Bakersfield. In its preliminary report,[2] the group disclosed that 327 houses were surveyed. The range of persons in each home varied from 1 to 13, with an average number per household of 4.8.

Over two-thirds of the houses were not considered to be in good condition. One-third did not have adequate plumbing. More than 1 out of 10 did not have any running water. Almost one-third of the houses had rats and vermin.

A recent survey of youth services in southeast San Diego, an area characterized by poor housing, congestion and deterioration, revealed that it was also an area of high delinquency.[3]

The extent of substandard housing must await a more complete survey of existing facilities within each county. That it is a major problem is reflected in part by the specific examples in the four counties cited in this section. Another important segment of this problem is the low-grade housing provided agricultural laborers and their families. This latter problem is reflected by the annual reports of the Division of Housing, Department of Industrial Relations. Of a total state-wide inspection survey of 3,910 labor camps, 2,352 were rated fair, and 381 bad.[4]

The Farm Labor Housing Report of the Joint Legislative Committee on Agriculture and Livestock Problems discussed problems of Fresno, Kern and Riverside Counties. Of Fresno County's farm housing situation it said the following:

> "Satisfactorily housing the necessary workers for the cotton and grape harvests is the chief problem in Fresno County * * *. The county has * * * many camps of various types and descriptions. It is here on the west side though, that one finds the greatest improvement in housing of anywhere in the State * * *. There are still some camps in this area that are not too good * * *."[5]

Kern County's problem "is one of providing sufficient seasonal family type housing of adequate standards for the labor necessary to handle the spring potato and vegetable crops and the cotton and grape harvest in the fall."[6]

The report continues by describing the Bakersfield Cottonwood area, and then comments on select localities in Kern County. It says:

> "Agricultural worker subdivisions are springing up in the Weedpatch and Mountain View areas. These developments contain everything from tents and shacks to very acceptable small homes. This sort of development provides a lot of housing and *is fundamentally sound*, provided reasonable standards of construction and sanitation can be attained. The seasonal housing in the Edison region for workers in spring potatoes and vegetables consists largely of tent camps, and, on the average is not good * * *. The Buttonwillow region has numerous camps which fairly well take care of its needs. However, there could be improvements made in some of these camps."[7]

The Riverside County farm labor housing situation is generally short throughout the region, the report asserts. Because of the shortage of available facilities, labor is housed in tents or on camp sites. "The labor demand in this (Perris) area is substantial and the workers usually bring their own camping equipment, or in some instances, tents are provided. *The situation is not too satisfactory.*"[8]

From these quotations and the examples cited in some of the major metropolitan areas of the four counties, it must be deduced that poor housing, urban and rural slums remain a considerable critical problem in Kern, Fresno, San Diego and Riverside Counties.

E. ALCOHOLISM

Alcoholism is a major problem in California. Countless thousands of dollars and numerous hours of police personnel are absorbed in the handling of alcoholics. Police arrest statistics for alcoholism indicate that, throughout the State, approximately 50% of law enforcement time and arrests are within the sphere of alcoholism. The "revolving door" process, in which alcoholics are arrested as many as 200 times, is a needless waste of money and effort. Police handling of the drunk problem does not perceptibly reduce in any way the nature of the problem or cure its unfortunate victims.

---

[1] *Op. cit.*, p. 10.
[2] The above comments are based upon information submitted by Dean Knowles A. Ryerson, College of Agriculture, Davis, California.
[3] California. Legislature. Joint Senate-Assembly Committee on the Housing Problem. *Report, 1947* (1947) p. 11.

[1] California. Legislative Joint Committee on Agriculture and Livestock Problems, *Part I, Farm Labor Housing in California,* 128 p., Jan. 1949.
[2] Riverside Council of Church Women, *Housing Survey of the East Side,* preliminary report, 1 p., 1948.
[3] California Youth Authority, *Services for Youth in Southeast San Diego* (1948) 43 p.
[4] (California. Department of Industrial Relations, Division of Housing, *Biennial Report 1945-46* (1946) p. 47.)
[5] (California. Legislative Joint Committee on Agriculture and Livestock Problems, *op. cit.,* p. 13.)
[6] (*Ibid.,* p. 14.)
[7] (*Ibid.,* pp. 14, 15.)
[8] (*Ibid.,* p. 15.)

Alcoholism helps to disintegrate the personality, break down social ideals and causes family suffering and strife. Bolstered by the artificial reinforcements of alcohol, numerous acts of crime are committed. The records of many of our inmates in our state penal institutions reflect that fact.

In Fresno City, for the fiscal year 1947-48, there were 10,503 arrests for drunkenness. The total number of arrests for all offenses except minor traffic violations was 21,876 in that year. Drunkenness, therefore, comprised approximately 50% of all Fresno arrests, other than minor traffic violations. The number apprehended for drunken driving in that period of time was 337.

In the previous fiscal year, 1946-47, of the total arrests of 18,168 for offenses other than traffic violations, drunkenness accounted for 9,605. On a percentage basis, the total was greater than 50% in 1946-47.

Similar problems are revealed in the San Diego City's annual police report for 1947-48. In 1947, out of the total arrests made by the vice squad of 3,057, drunkenness accounted for 1,012 persons. Of 21,222 arrests for Class II offenses in 1947-48, 12,600 were for drunkenness. An additional 1,054 were arrested for drunk driving. The total arrested for alcoholism in 1947-48 were 13,654. This accounted for 64% of all class two offense arrests. Of total arrests for both Class I (felonies) and Class II (misdemeanors) in 1947-48, 22,202 arrests, 61% were for drunkenness or drunk driving in San Diego City.

In the City of Riverside criminal statistics for the year 1947-48 indicate similar dimensions of the alcoholism problem. Of all arrests (both Class I and II) in that period, 59% were for drunkenness and drunk driving. Alcoholism accounted for 856 arrests of a total of 1,446 from July 1, 1947, to June 30, 1948.

Sheriff John Loustalot of Kern County, in his remarks before the commission at Bakersfield, asserted, "Alcohol is a big factor with the people we work with * * * sixty percent of our jail population are probably in there directly or indirectly due to drink."[1]

The magnitude of this problem in the four counties, as the statistics quoted above reveal, is great. Alcoholism is a symptom of personal and social disorganization and disintegration. It is a problem of serious concern to law enforcement officials, students of etiology and professionals in the field of mental hygiene and social welfare.

F. BREAKDOWN OF FAMILY LIFE

Increasing rates of marital separations and divorces reflect the magnitude of the problem of family breakdown. The known divorce rates are actually a small segment of actual family disintegration in the four counties. They do not reveal the number of families which have been divorced in other states, the number of trial separations and perhaps the greatest number of family breakdowns, those parents who are living together in a family situation in which there are heightened conflicts, without any legal action taken for separation or divorce.

[1] (Minutes of Meeting of Social and Economic Causes Commission, Bakersfield, February 16, 1949, p. 13.)

The breakdown of family life, in addition to its destruction of family unity and solidarity, has other corollary effects upon both children and adults. It creates in the first instance insecurity and instability for the children within this familial setting. Tensions and strains mount which often are released in socially undesirable behavior manifestations. Family strife and emotional instability of the parents augment child neglect and delinquency, as a recent survey in Connecticut indicated.

The theory that the individual falls into antisocial behavior to escape from family discord and discomfort finds its support in the exhaustive examinations of Healy and Bronner and Reckless. Juvenile and adult misbehavior can become and often is the individual's expression of defending himself against inner anxieties and conflicts. In this specific sense, family breakdowns affect delinquency and crime.

From June 30, 1947, to June 30, 1948, the filings of domestic relations cases in the Superior Courts of Fresno, Kern, Riverside and San Diego Counties comprise a partial index of family breakdowns. These cases range from divorce proceedings, separations to more minor examples of family discord.

For that period 3,080 cases were filed in Fresno County, 2,962 cases in Kern County, 1,899 in Riverside County and 7,806 in San Diego County, statistics from the Judicial Council's annual report for 1947-48 reveal.[2]

By computing the number of domestic relations cases filed in the superior court in 1947-48 against the estimated population of the county, the following indexes are arrived: Fresno County had 12.8 cases filed per 1,000 population; Kern, 15.1; Riverside, 12.9; and San Diego, 14.4.

County	Estimated population 1947-48 (in 1,000's)	Number of domestic relations cases filed in superior court June 30, 1947-June 30, 1948	Number of domestic relations cases per 1,000 population, 1947-48
Kern	189.9	2,962	15.1
San Diego	540.95	7,806	14.4
Riverside	147.7	1,899	12.9
Fresno	241.2	2,962	12.8

To sufficiently supplement these statistics, it would be necessary to have a count of those local families which were divorced in other counties of California; the number of divorce cases settled in other states and the number of families with serious discord and adjustment problems, though no official legal action has been taken.

G. AGRICULTURAL MIGRANTS

Agricultural migrants comprise a significant part of the mobile population of three of these counties—Kern, Fresno and Riverside. They represent, in a sense, a synthesis of several social problems. Economically disadvantaged, they cannot afford for their children decent housing, educational advantages, recreational opportunities, stability of residence, adequate medical and physical care, or gain community acceptance. In a separate study of this commission the state-wide problems of migrant families have been analyzed.[3]

[2] (California Judicial Council, *Twelfth Biennial Report* (1948), p. 115.)

[3] (See study, *California Agricultural Economy and the Problem of Crime.*)

For the 1946 crop total number of agricultural workers needed in the four counties varied as follows:

County	Month and week	Approximate number of workers required
Fresno	April 1-6, 1946	270
	May 18-25	6,330
	June 22-29	11,020
	Aug. 24-31	18,500
	Sept. 1-7	32,710
	Oct. 19-26	20,280
	Dec. 1-7	10,740
	March 3-9	2,330
Kern	Jan. 20-26, 1946	5,800
	Feb. 17-23	3,460
	March 3-9	1,750
	Apr. 21-27	5,980
	May 12-18	10,920
	June 2-8	15,750
	July 14-20	5,000
	Aug. 25-31	6,850
	Sept. 22-28	8,060
	Oct. 20-26	15,880
	Dec. 22-28	5,070
Riverside	Jan. 1-5, 1946	2,720
	Feb. 10-16	6,780
	Mar. 3-9	8,750
	May 5-11	5,930
	June 9-15	7,690
	July 14-20	9,860
	Aug. 11-17	3,720
	Oct. 20-26	4,880
	Dec. 8-14	3,240
San Diego	Jan. 6-12, 1946	2,400
	Feb. 17-23	3,490
	Apr. 14-20	2,470
	June 16-22	3,340
	Aug. 18-24	3,870
	Sept. 15-21	3,700
	Nov. 17-23	960
	Dec. 8-14	1,370

Source: California. Department of Employment, *Labor Requirements for California Crops* (1946).

As the preceding table demonstrates, there is varying seasonal need for agricultural labor in the four counties. Fresno's agricultural labor requirements ranged from 270 workers in the first week of April (1946) to 32,710 in early September 1946. From a minimum labor demand of 1,750 agricultural workers in March 1946, Kern County's needs range to a high of 15,880 workers in October 20-26th week.

For Riverside County the varying seasonal labor demand was less extreme in 1946. Its minimum needs were in the first week of January 1946 when 2,720 workers were required. In mid-July 1946, there was demand for 9,860 workers.

The agricultural labor needs of San Diego County in 1946 were relatively and actually small. At its peak in mid-August 1946, 3,870 workers were required. This was in contrast to the minimum demand of 960 laborers in mid-November 1946.

The significance of these statistics lies in their explanation of agricultural unemployment. California's agriculture, with its highly seasonal characteristics, imposes long periods of unemployment upon its labor force. Inasmuch as these workers are generally ineligible for unemployment insurance, there are additional hardships created.

The primitive makeshift housing that migrants call home are extant throughout the State. During periods of high labor demand, tents, shacks and one-room "houses" mushroom in great numbers within the four counties. During these periodic harvest seasons great influxes of new workers arrive, who feel no sense of community responsibility, and who comprise a restless element of the temporary population. They augment community problems by increasing the need for greater law enforcement supervision, sanitation and health controls, and temporarily increase the local school population with a considerable proportion of maladjusted, psychologically isolated, educationally retarded children.[1]

The problems of migrant agricultural workers become the particular problems of the local communities in which they temporarily reside. The stresses and strains and composite social and economic disadvantages to which they are subjected reflect themselves in problems of crime and delinquency.

Of the four counties, Fresno and Kern have the greatest migrant labor problem. The size of the temporary labor force in these counties, particularly in Fresno, presents numerous difficulties for the local governmental units.

Mobility and migration, alcoholism, family breakdown, inadequate housing, unemployment and the plight of agricultural laborers are actually but a few of the more pressing problems of California and of Kern, Fresno, Riverside and San Diego Counties. Among others, there are the problems of educational needs, shortages of psychiatric personnel and clinics, recreational needs and problems of minority groups.

H. EDUCATIONAL NEEDS

Population growths have caused serious strains on existing educational facilities. Educational institutions demonstrate a clear need for more teachers and more school buildings. In his pleas before the 1948-49 session of the State Legislature, the State Director of Education clearly cited the need for an expanded school building program.

The State Department of Education in its report to the Governor's Council for March 1949, reported serious problems resulting from both population growth and high rates of mobility. The report stated:

> "A serious problem both in administration and instruction in the public schools of California today stems from the fact that the State's population is increasingly mobile during its present phase of rapid increase. Children frequently are moved from school to school. There is reason to expect that this characteristic of California people may persist."[2]

The increases in school enrollment are reflected in the statistics of average daily attendance for 1945-46 and

[1] (See Kern County Mental Hygiene Society, *A Study of the Effect* of Mobility on the Adjustment of School Children (1948) 38 p. (mim.).)

[2] California. Department of Education, *Report* for Governor's Council during March 1949, p. 3.

1946-47, as well as comparisons of enrollment of March 31, 1948, with October 31, 1948. These are as follows:

Table 45. AVERAGE DAILY ATTENDANCE, ELEMENTARY AND HIGH SCHOOLS, SCHOOL YEARS FOR 1945-46, 1946-47

County	A.D.A. 1945-46	A.D.A. 1946-47	Increase
Elementary Schools (1st-8th Grades)			
Fresno	28,716.08	33,186.23	4,470.15
Kern	23,564.86	27,191.17	3,626.29
Riverside	16,590.88	18,984.05	2,393.17
San Diego	40,664.44	45,295.12	4,630.68
High Schools (9th-12th Grades)			
Fresno	9,010.56	10,602	592
Kern	7,069.88	8,755	1,686
Riverside	4,881.98	5,874	992
San Diego	15,558.91	19,394	3,835

Sources: California. Department of Education, *State Apportionment for the Support of Public Schools in California, School Year Ending June 30, 1947*, 130 p., September 1946. *State Apportionment for the Support of Public Schools in California, School Year Ending June 30, 1948*, 95 p., September 1949.

Table 46. ACTUAL ATTENDANCE IN ELEMENTARY SCHOOLS AND HIGH SCHOOLS, MARCH 31, 1948, AND OCTOBER 31, 1948

County	March 31, 1948	October 31, 1948	Increase
Elementary Schools Attendance (Kindergarten to 8th Grade)			
Fresno	38,360	41,406	3,046
Kern	33,307	35,421	2,114
Riverside	22,369	22,536	167
San Diego	53,957	56,243	2,286
High School Attendance (9th-12th Grade)			
Fresno	10,361	10,976	595
Kern	8,499	9,476	977
Riverside	6,228	6,627	399
San Diego	16,085	17,004	919

Sources: California. Department of Education, *California Schools*, 19:181-195, June, 1948, *California Schools*, 20:6-20, January 1949.

The statistics on public school enrollment growth reflect the annually increasing problems for the educational systems of the four counties. Overcrowding in public schools diminishes teacher supervision and effectiveness, and increases student problems of discipline. It is a significant problem of the four counties.

I. SHORTAGE OF MEDICAL AND PSYCHIATRIC PERSONNEL AND GUIDANCE CLINICS

Trained, professional personnel to minister to the needs of the mentally ill and those with behavior problems are seriously lacking in the four counties. The limited facilities that exist in several of the counties are not sufficient to take care of county-wide needs. They afford treatment for a bare minority of those persons in need of further psychiatric and clinical examinations.

Riverside County does not have a single practicing private or publicly sponsored psychiatrist. Kern County has only two psychiatrists and a small guidance clinic in Bakersfield which is partially supported by Community Chest funds. Fresno County recently received a new State Department of Mental Hygiene clinic, which started operation in December 1948. San Diego County has several psychiatrists as well as operating guidance clinics, but insufficient to meet the demand and need for psychiatric assistance. These bold facts reflect serious areas of need for treatment facilities and personnel. It is especially important in California because of the instability of its rapidly expanding, mobile population and the ever-mounting evidences of mental conflicts and breakdowns due to the stresses and strains of readjustments, overcrowding and mobility.

J. RECREATIONAL NEEDS

The section on "Recreation" described the varieties and types of publicly and privately supported recreational programs in the four counties. There were varying facilities meeting the needs of but a fraction of the county's population. Geographically, recreational facilities are principally concentrated in the urban metropolitan centers of the four counties, with the exception of Kern County. The latter county has developed an extensive planning and coordinating program which has extended facilities and encouraged community development of recreational opportunities.

While the recreational services that are being extended are laudatory, there is fundamental need for extending them to communities with smaller population concentrations and to provide for the corollary needs of migrant workers and their families. The improvisation of mobile recreational units could fulfill to a considerable extent a portion of these needs.

Recreation and leisure-time activities are fundamental to proper mental health and social balance. To implement recreational needs is to make strides in the reinforcement of community well-being.

K. CULTURE CONFLICT AND MINORITY GROUP PROBLEMS

The history of California, as well as its development, has been greatly stimulated by population migration. Large concentrations of Chinese, Japanese, Filipinos and Mexicans have entered in successive waves of immigration to implement the labor force and aid principally in agricultural production. Sizeable numbers of diverse foreign nationality group members — Scandinavians, Italians, Portuguese, Irish, English and southeastern Europeans— as well as native-born residents of other states have swelled California's population and contributed to its development. More recent in-migration into California has brought large numbers of Negroes. This has been especially true since the start of the last war when the labor demands of shipyards and war industries were filled in part by members of this minority group. Many came from southern states in which they had been raised under the repressions of acute manifestations of racial discrimination and confinement.

Partial assimilation of white immigrants has been achieved, but Italians, Portuguese and southeastern Europeans have only been partly integrated. To a considerably lesser extent have those of Mexican descent been accepted or integrated.

Of the other non-white immigrants, Orientals and Negroes, integration and assimilation has been negligible.

These minority racial and nationality groups, partially as their response to discrimination in employment, housing, education and community acceptance, have assumed protective mechanisms and social isolation.

The responses to discrimination by minority groups can never be socially desirable. Bitterness and cynicism substitute for the wholesome acceptance of the American creed of freedom. Reactions against certain instruments of government, one of which is law enforcement, is decidedly protective and lacking in mutual respect and confidence. Resentments are built up and stored which find expression in retaliatory behavior and disrespect for accepted social standards which apply unequally to the minority group. These expressions are often reflected in both crime and delinquency rates, as much as majority group discrimination is reflected in commitment rates to state institutions.

The four counties had significant increases of racial and nationality minority group members since 1940. San Diego, by a 1946 estimate, had between 13,000 and 16,000 Negroes residing in the metropolitan area.[1] In 1940 there were approximately 4,000 Negroes in San Diego City.

The estimates for Fresno County, as offered by Mr. Cecil Hinton, Negro Director of Fresno's West Side Community Center, was approximately 6,000 Negroes.[2]

Complete data are unavailable for either Kern or Riverside County, though both counties have likewise experienced great influxes of Negroes since 1940. The more extensive use of Negro farm labor, and the heavy Negro concentrations in Bakersfield's Cottonwood section reflect their growth in numbers in Kern County. The heavier concentrations of Negroes in Riverside's East Side section reflect their influx in Riverside County.

The disproportionate number of Negroes and Mexicans committed to our state institutions reflects in part their disadvantaged social and economic environmental conditions and equally the discrimination of justice. On this fundamental point there seems to be wide agreement among students of the problem.

Professor Sutherland in his *Principles of Criminology* comments: "These statistics (of higher arrest rates as well as commitment to state institutions) probably reflect a bias against all minority races but especially against the Negro.[3] Professor Reckless asserts: "The explanation for this difference lies in the greater problem of adjustment facing Negroes than those facing whites in the United States, and the greater liability of Negroes than that of whites to be arrested by police and to receive differential justices in the legal process—all of which factors are incidental to the minority-group status of the Negro."[4]

Professors Wood and Waite, University of Michigan, in an emphatic quotation from their book, *Crime and Its Treatment*, agree: "[Differences in arrests of Negroes in the entire country] reflect police practices in arresting Negroes. But above all they point to the disorganization of Negro life in a white man's civilization * * *. Any dogma about the Negro's innate disposition to crime is absurd, reflecting merely the prejudice of those who hold such views."[5]

Finally, in a recent study of the administration of justice with respect to minority groups in Los Angeles County,[6] Professor Lemmert and Miss Rosberg concluded that there was considerable evidence of discrimination in that county. To assume that Kern, Fresno, Riverside or San Diego Counties reflect higher levels of cultural understanding and tolerance than Los Angeles is an unwarranted assertion. The disproportionately higher percentage of both Negroes and Mexicans committed to state institutions during 1946 and 1947 by the four counties provides a satisfactory index, in part, of the discrimination of justice locally with respect to minority groups.

In Kern County, during 1946-1947, Negroes comprised 21.9% of total commitments; in Fresno, 18.5%; in Riverside, 14.5%, and in San Diego, 10.8%. Commitments of persons of Mexican descent for those years were as follows: Fresno, 19.3%; Riverside, 16.5%; Fresno, 8.9%, and San Diego, 8.5%.

[1] (American Council on Race Relations, *Intergroup Relations in San Diego* (1946) p. 11.)
[2] Minutes of Fresno meeting, p. 76.
[3] (Sutherland, *Principles of Criminology*, p. 139.)
[4] (Walter C. Reckless, *Criminal Behavior* (1940), p. 115.)
[5] (Wood and Waite, *Crime and Its Treatment*, 1941, p. 250.)
[6] (Edwin M. Lemmert and Judy Rosberg, *The Administration of Justice to Minority Groups in Los Angeles County*, University of California Publications in Culture and Society reprint, 27 p. (1948).)

XX. CONCLUSIONS

As the foregoing sections indicate, the four counties present contrasts in both the size and nature of their respective social and economic problems; differences in physical and natural resources; varying community response to the health, welfare and safety needs of its citizenry; diverse economic and agricultural activity; and differing rates of criminality, probation, and commitment.

These differences, reflecting the diversity of community attitudes, resources, and inner strengths and weaknesses, lead to certain conclusions concerning the social and economic factors related to crime and delinquency causation. These are as follows:

1. In a majority of indices—migration and mobility problems; size of its seasonal agricultural labor force; recreational needs; unemployment and displacement of labor by mechanized agricultural equipment; family breakdown; size of its welfare problem; and ratio of law enforcement personnel to population —Fresno County's social problems were more serious in size and scope that those of the other counties.

2. By the index of crimes known to law enforcement officials, both municipal and county-wide, Fresno County has the most prominent problem of crime. The rates in Riverside, San Diego, and Kern Counties indicate parallel problems but of less severity.

3. The social problems confronting the four counties are typical of the State as a whole. Their responses to community needs, however, vary considerably.

4. The communities which have attempted to implement more extensively their public and private services for health, welfare, and the well-being of its citizens seemingly have lower rates of criminality.

5. There seems to be sufficient evidence, by the index of minority racial and nationality groups committed to state institutions and the corollary statistics of probation, that community attitudes toward these minorities reflect vindictiveness in the administration of justice.

6. The assimilation of large numbers of newcomers to California, with diverse cultural and ethnic backgrounds, has been a difficult task. The statistics of commitments to state institutions show an ever increasing proportion of residents with less than four years' residence in California.

7. Unemployment is becoming an increasing problem in the four counties and throughout California as a whole. An economic recession will further tax the stability and well-being of the four counties as well as the State.

8. Crime prevention programs, which organize the resources and existing facilities within the community ministering to the health, welfare, religious, educational, recreational, and law enforcement needs, demand greater implementation in the three agricultural counties, as well as that of the industrial county. The extensive coordinating council program in San Diego County reflects the high level of community awarness and appreciation of the scope and nature of the problem there. But, as their 1947 conference on delinquency prevention revealed, many additional youth needs must still be met in San Diego. Delinquency prevention is not only a more positive approach, but also less costly.

9. Probation departments, uniformly, have too great a case load for efficient handling of their juvenile and adult probationers. The standard of fifty probationers per officer, is far exceeded in all counties.

10. There is need for more specially trained law enforcement officers for juvenile cases in all counties. Fresno County had no juvenile division, while Kern, Riverside, and San Diego Sheriffs' Offices had only a few officers specifically assigned to juvenile cases. The program of the Special Services Bureau, Fresno City Police Department, is admirable, though there exists need for special training, and educational qualifications of its personnel.

11. There is need for considerable more research, and scientific improvement and refinement of our sociological and psychological disciplines to get more accurate estimations of causality. There is wholly lacking at present, sufficient definitive information in etiology of crime and delinquency.

12. Local statistical criminal compilations and methods of recording crime need considerable improvement and refinement. Statistical contradictions are apparent and lead to questions of the reliability of crime statistics.

13. The growth of population and increases in the natural birth rates indicate an increasing need for additional educational facilities and teacher personnel in the four counties. Within a six-month period, from March 1948 to October 1948, increases in school population in grammar schools were 3,046 in Fresno; 2,286 in Riverside County; 2,114 in Kern County, and 167 in San Diego.

14. While all school systems of the four counties have established guidance and welfare bureaus, their personnel is too limited in number to adequately attend to the personal needs of children with behavior problems and symptoms of maladjustment.

15. Alcoholism, as police statistics reveal, is a major problem in all four counties.

16. The response to recreational needs is admirable in both San Diego and Kern Counties. The Counties of Fresno and Riverside could effectively utilize recreation commissions planning the over-all extension of leisure-time activities to outlying rural communities.

17. The seasonal agricultural labor force in the four counties differs in size. It is largest in Fresno County followed by Kern, Riverside, and San Diego Counties in relation to their labor demands. Characteristic problems of unemployment, poor housing, inadequate medical care, and mobility of the agricultural migrant tax community efforts and resources in proportion to the size of the agricultural labor population.

18. By the index of crimes cleared by arrests, Fresno County Sheriff's Office had distinctly lower rates than the three other counties. This index is often used as a measure of law enforcement efficiency.

Selected Bibliography

BOOKS

California *Blue Book*, 1946.

Mabel A. Elliott and Francis E. Merill, *Social Disorganization*, Harper Bros., 1941.

Harry Elmer Barnes and Negley Teeters, *New Horizons in Criminology*, Prentice Hall, 1941.

Gunner Myrdal, *An Americn Dilemma*, Harper Bros., 1946.

Walter C. Reckless, *Criminal Behavior*, McGraw-Hill, 1939.

Clifford R. Shaw and Henry D. McKay, "Report on Social Factors in Juvenile Delinquency," *National Commission on Law Observance and Enforcement*, Vol. II, No. 13, 1932.

Social Work Yearbook, 1947, Russell Kurts, Editor, Russell Sage Foundation, 1947.

Pitrim A. Sorokin, *Social Mobility*, Harper Bros., 1928.

PAMPHLETS AND PERIODICALS

American Council of Race Relations, *Intergroup Relations in San Diego*, 33 p., San Francisco, 1946.

California

Controller, *Financial Transactions of Municipalities and Counties of California for the Year, 1947*, 265 p., November 1948.

Department of Education, *California Schools*, Vol. XIX, No. 6, November 1948 and Vol. XX, No. 1, January 1949.

State Apportionments for the Support of Public Schools of California, for the School Year Ending June 30, 1947, 130 p., 1947.

Apportionment of the California State School Fund for the Fiscal Year Ending June 30, 1948, 97 p., September 1947.

Department of Employment, *Labor Requirements for California Crops, 1947*, 19 p., November 1948.

Department of Employment, *California Post Season Farm Labor Report, 1948*, 32 p. (mim.) 1948.

Employment and Unemployment in California, February 1949, May, 1949.

Employment for the State and All Counties During the Third Quarter, 1947, 151 p. (mim.) December 1948.

Governor, Conference on Mental Health, *Section Findings and Recommendations*, 31 p., 1949.

Crime Commission on Adult Corrections and Release Procedures, *Report of a Survey of the Crime Facilities of Fresno County*, by V. J. O'Malley, 9 p. (typ.) May 14, 1949.

Crime Commission for the Study of Social and Economic Causes of Crime and Delinquency, *California Agricultural Economy and the Problems of Crime*, by I. J. Shain, 36 p. (mim.) 1949.

Minutes of Meeting in Bakersfield, February 16, 1949, 117 p. (typ.) 1948.

Minutes of Meeting in Riverside, October 7, 1949, 92 p. (typ.) 1948.

Minutes of Meeting in Fresno, December 10, 1948, 136 p. (typ.) 1948.

Judicial Council, *Eleventh Biennial Report*, 83 p., 1947, *Twelfth Biennial Report*, 155 p., December 31, 1948.

Department of Justice, Bureau of Statistics, *Probation and Commitments to State Institutions 1946 and 1947*, 10 p. (typ.) 1948.

Felony Offenses Known to Sheriffs and Police Departments for the Calendar Year 1947, 10 p. (procd.) 1948.

Legislature, Joint Senate-Assembly Committee on Housing Problem, *Report, 1947*, 48 p., March, 1947.

Joint Committee on Agriculture and Livestock Problems, Part I, *Farm Labor Housing in California*, 123 p., January 1949.

Department of Public Works, *Revised Estimated Apportionment of Gas Tax Allocations to Cities, Fiscal Year 1949*, 23 p. (mim.) 1949.

Recreation Commission, *Comparative Data on Recreation Departments in Cities 5,000 to 50,000 Population*, 3 p. (mim.) September 23, 1948.

Year Around Recreation Departments, Type of Organizational Setups, and Sources of Finances, 5 p. (mim.) 1948.

Youth Authority, *Services for Youth in Southeast San Diego*, 43 p. (mim.) 1948.

Delinquency and Youth Services in Riverside County, 145 p. (mim.) 1945.

Youth Services in Kern County, 135 p. (mim.) 1946.

Delinquency and Youth Services in Fresno County, 81 p. (mim.) 1944.

Children Under 18 Years of Age Apprehended by Law Enforcement Agencies in California During 1947, 14 p. (mim.) June 1948.

Report of Progress Following Community Studies, 13 p. (mim.) 1947.

California Taxpayers' Association, *Tax Digest*, January 1947 and January 1948.

Fresno, City, Police Department, Bureau of Special Services, *Annual Report*

July 1, 1946 to June 30, 1947, 17 p. (mim.) 1947.

July 1, 1947 to June 30, 1948, 16 p. (min.) 1948.

Police Department, *Annual Report 1946-47*, 10 p. (typ.) 1947.

Annual Report 1947-48, 10 p. (typ.) 1948.

Fresno, County, Probation Department, *Annual Report of the Probation Officer*

for the Calendar Year 1946, 14 p. (mim.) 1947.

for the Calendar Year 1947, 15 p. (mim.) 1948.

Kern County Council of Social Agencies, *Report of Resolutions Committee*, 8 p. (min.) February 3, 1949.

Kern County Mental Hygiene Society, *A Study of the Effect of Mobility on the Adjustment of School Children*, 38 p. (typ.) 1948.

Kern County, Probation Department, *Annual Report 1947*, 14 p. (mim.) *Annual Report 1948*, 26 p. (mim.) 1949.

Recreation and Cultural Commission, *Objectives, Basic Principles, Policies, Functions*, 8 p. (min.) 1947.

Edwin M. Lemmert and Judy Rosberg, *The Administration of Justice to Minority Groups in Los Angeles County*, U. C. Publications in Culture and Society, 27 p. (1948) U. C. Press, Berkeley and Los Angeles, California.

National Probation Association, *The Juvenile Delinquency Problem in San Diego, California* by Francis H. Hiller, 75 p., 1943.

Riverside, City, Police Department, *Annual Report Fiscal Year* 1946-47, 25 p. (min.) 1947.

Annual Report Fiscal Year 1947-48, 25 p. (mim.) 1948.

Riverside Council of Church Women, *Housing Survey of the Eastside (Riverside) Preliminary Report*, 1 p. (mim.) June 1948.

Riverside, County, Sheriff, *Annual Report, Fiscal Year Ending 1947*, 23 p. (proc'd) 1947, *Fiscal Year Ending 1948*, 25 p. (proc'd) 1948.

San Diego, City, Welfare Department, *Delinquency Prevention*, January 1949 48 p. (proc'd).

Police Department, *Annual Report, Fiscal Year 1947-48*, 49 p. (proc'd) 1948.

San Diego, County, Coordinating Councils, *The Coordinator*, Vol. III, No. 2 to Vol. VIII, No. 2.

Probation Department, *Annual Report 1947*, 42 p. (mim.) 1948.

Annual Report 1948, 44 p. (mim.) 1949.

Sheriff, *Annual Report Fiscal Year 1947-48*, 25 p. (mim.).

Thorsten Sellin, "The Basis of A Crime Index" in *Journal of Criminal Law and Criminology*, 22:335-356, September, 1930.

U. S. Department of Commerce, Bureau of the Census, *Population*, 1940.

Census of Agriculture, 1945.

Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, Vol. 18, No. 1, 74 p., 1947; Vol. 18, No. 2, 126 p., 1947.

Part V

REPORT C

Criminal Statistics in California

By

RONALD H. BEATTIE, Chief

FRED A. KNOLES, Assistant Chief

and Members of the Bureau of Statistics

Department of Justice

State of California

The administration of criminal justice encompasses all of the activities carried on by public agencies in the enforcement of the criminal law of a state. It includes the activities of police, sheriffs, and other agencies directly concerned with the investigation of a crime and the apprehension of offenders. It includes the activities of inferior courts, prosecuting attorneys, grand juries, public defenders, coroners, courts of general jurisdiction and appellate courts. It includes all of the operations of correction and treatment, probation, jails, prisons and parole. It is also involved very materially in a large part of the activities of the juvenile court system. To say, therefore, that the administration of criminal justice is one of the major functions of government is no exaggeration.

Under the Constitution of the United States, the general police powers are reserved to the several states. Each state is a sovereignty and sets up the laws and procedures covering the whole field of criminal justice and provides, in detail, for the way it is administered. Such administration, however, is of necessity delegated chiefly to the local divisions of government.

In California, as in all other states, the criminal laws and provisions for their enforcement are to be found in the Constitution and Statutes of the State. The theory behind a system of administration of criminal justice would seem to be fairly clear and simple. Certain acts of individuals are proscribed by the sovereign state as being against the interest of public safety and welfare. The commission of such acts which have been labeled crimes results in the public accusation and prosecution of the alleged offender, who, if found guilty of the offense, is subjected to such punishment or treatment as is indicated in the penal statutes.

The responsibility for carrying out the enforcement of the criminal law actually is divided among many independent and unrelated agencies. In California, the investigation of crime and apprehension of suspected offenders is carried on by more than 300 police agencies, 58 sheriffs' departments, not to mention local constables and special agents of many state departments concerned with the enforcement of certain regulatory acts. Prosecution in the State involves over 300 municipal or police courts, 58 district attorneys' offices, the superior courts and grand juries in 58 different counties, not to mention a large number of rural justices of the peace. Included in this phase is the matter of detention in municipal and county jails of persons accused of crime. The correctional processes apply to those found guilty of criminal offenses and involve the probation departments in each county, nearly 300 municipal jails, 58 county jails, the facilities of the Youth Authority, and the parole organizations of that authority, the prisons of the State, the Adult Authority, and the parole activities of that authority. In addition, there are the more specialized activities of police, probation departments, detention homes, and juvenile courts, as related to juvenile delinquency.

The direct annual cost of operating these agencies engaged in the administration of criminal justice in California exceeds $100,000,000. More than $15,000,000 is spent directly by state agencies, largely in the operation of correctional institutions. At least $90,000,000 is expended each year by the counties and cities in maintaining the various agencies engaged in the enforcement of the criminal law.

What do we know about the operation of this complex and expensive function of government in California? What provision has been made to supply information concerning and summarizing the efforts of law enforcement in the State? Presumably, before any real knowledge can be available, there must be developed a uniform collection of data and a plan for research.

Governmental research is concerned with the careful examination of factual data relating to a function or operation of government and the determination of the relative efficiency or effectiveness of the operation studied as revealed by the information. Basically, therefore, certain factual data have to be obtained before there can be any research. The greatest obstacle to research in the field of the administration of criminal justice has been the difficulty of obtaining, from the large number of independent agencies active in this field, uniform and essential data on the amount of crime, the persons arrested and charged, and the administrative processes to which they were subjected during the course of prosecution and corrective treatment.

No state has achieved a satisfactory solution to the problem of obtaining the basic information. In California, a serious attempt is being made to meet this problem, through the establishment of a Bureau of Statistics in the Department of Justice, which is charged with the task of obtaining factual data in the field of law enforcement and correction and carrying on research studies to reveal the extent of crime in the State and, specifically, what is being done to directly combat it. This bureau has been in operation for over three years and has been given substantial support by the Legislature to carry on its initial activities. At the present time, fairly complete information has been developed and is available relating to persons committed to the two state departments dealing in correctional activities, the Department of Corrections and the Youth Authority. This information also extends to the administrative practices of these agencies and to the parole systems involved. On the other hand, the attempts to develop uniform information from the many local law enforcement agencies in the State, have not as yet been successful. One series of information relating to the number of felony offenses reported to police agencies is fairly complete. Information, however, relating to arrests, court dispositions, and probation is still undeveloped.

Our system of government is such that the major responsibility for law enforcement is, and will continue to be, a local function. This means that, of necessity, it will always be carried on by several hundred independent agencies in this State. Only through coordination and cooperative efforts will it be possible to obtain information needed for a knowledge of law enforcement throughout the State, or on a compartive basis among the various localities themselves. Presumably, it is appropriate for a state agency to be given the responsibility for the promotion and development of the needed coordination and cooperation. In order to maintain uniformity of reporting, standards of operation and common objectives in similar agencies, some system of subvention on the part of the State may prove desirable.

At the present time, there are several state agencies concerned with the coordination of local activities in this field on a more or less piecemeal basis. Three separate laws are on the statute books of the State giving three different

agencies relatively complete powers of gathering information and examining into the operations of criminal law enforcement. The three agencies involved are the State Division of Criminal Identification and Investigation, the Youth Authority, and the Board of Corrections. By administrative agreement, the efforts of all these agencies, as respects statistics of crime, are being carried on through the Bureau of Statistics. The Department of Justice carries on certain activities of coordination among the peace officers and the district attorneys of the State. The Governor's Crime Study Commissions, which will continue in existence until June 30, 1949, are studying various aspects of the crime problem and will report to the Governor and the Legislature through the Board of Corrections.

Many studies relating to crime and criminals are carried on by universities, welfare departments, and probation departments. The California Peace Officers' Association, District Attorneys' Association, California Probation and Parole Association are all interested and more or less actively engaged in developing information with particular programs with which they are concerned. Other organizations, such as the State Bar Association, County Bar Associations in some of the larger counties, and the Commonwealth Club are interested and active in this field. Yet, at the present time, there is no one organization, or even a committee representing several organizations, which exists to coordinate and bring together for over-all consideration, ideas and proposals concerning research in the field of crime. It has been suggested that the Board of Corrections, by statute, may be considered a permanent crime commission for the State. But, up to the present time, there has been no general recognition of this board in that capacity.

During the past 25 years, since crime and the administration of criminal justice became a major focus of attention in the 1920's, there has been a great deal of money and research effort put forth in this field. Many studies of a major and minor nature have been carried on, but based only on partial facts, inasmuch as the basic factual data was never available to use. The result has been a great many conclusions and findings but relatively little additional knowledge gained, either of crime and criminals or of the effectiveness of criminal law administration. It would seem that the time has come to reconsider the situation and to try to direct such research efforts as are made to the end that more effective results will be obtained. Both public and private research funds are far too limited to permit waste in scattered, uncoordinated and ineffectual research.

Fundamentally, the first step that still has to be undertaken is to obtain accurate and uniform information relating to crime and its administration before the essential knowledge concerning the extent of crime, the administration of criminal justice, and the relative success or failure of the processes of treatment and correction can ever be adequately known.

In conclusion, let us present the problem in terms of our own State's statistics. We estimate, with very little knowledge on which to base our estimate, that some 600,000 people are arrested in this State in a year, charged with criminal offenses other than traffic violations. We have a considerable amount of knowledge relating to about 4,000 of these persons who are committed to our state correctional institutions. Who the other 596,000 were, what they were charged with, what eventually happened to them in our system of criminal justice, we do not know. Until there is available more basic information about the 596,000, we shall still know very little of crime and the administration of criminal justice in California.

PROGRESS CHART

CRIME AND CRIMINAL STATISTICS IN CALIFORNIA RELATING TO FELONIES

March, 1948

Objective	Series or Field	Source Material (Actual or Potential)	Product (Actual or Potential)	Processing Agency	Status
A. Nature and extent of criminal activity.	1. Felony crimes committed.	a. *Individual* crime reports submitted by all local and state law enforcement agencies to State DCI & I under the requirements of Chap. 788, Statutes of 1929.	Periodic summary of felony crime reports by crime and jurisdiction or area. (Actual).	"Bureau," as successor to the duties of the State Division of Criminal Identification and Investigation or as the research and statistics agency of the Youth Authority or Department of Corrections, respectively.	From 1930-47, this series has not been representative, due to failure of many police departments and sheriffs' offices to report consistently, completely or even at all. Lacks adjustment for "Unfounded" reports.
B. Productivity of police efforts in the solution of crimes and the apprehension of criminals	2. Clearances by arrest, closings for other reasons.	b. *Individual* "follow-up" reports submitted to State DCI & I under the requirements of Chap. 788, Statutes of 1929.	Periodic summary of felony cases cleared or closed by crime, by manner of clearance, by jurisdiction or area. (Potential)	"Bureau."	Has never been attempted, due to even more unsatisfactory status of this phase of reporting to DCI & I as above.
	3. Felony arrests	c. *Individual* fingerprints and "additions to record" submitted to DCI & I under the requirements of Chap. 723, Statutes of 1917.	Periodic summary of persons booked on felony charges, by offense by jurisdiction. (Potential)	"Bureau"	From 1930 to 1945 this series was not representative, due to lack of funds to eliminate additions and process "additions to record." Will be resumed when DCI & I is able to properly process "additions to record."
	4. Juvenile arrests	d. Annual *tabular* report to Youth Authority by all local and state law enforcement agencies under the requirements of Sec. 1752.7, W & I Code.	Annual consolidated tabulation of persons under 18 arrested by police departments or sheriffs' offices. Separated sexes, arrests and "contacts," residents and persons from out of state.	"Bureau."	Is admittedly a stop-gap. While coverage is good, validity of reporting is questionable.
C. Results of the processes of criminal justice.					
1. At Police Level	5. Police dispositions of persons arrested.	e. *Individual* dispositions submitted to DCI & I under the requirements of Chap. 723, Statutes of 1917.	Periodic summary of the dispositions of subjects against whom no complaint is filed. (Potential)	"Bureau."	Has never been attempted for reason that DCI & I has not completely processed "Dispositions" received from local agencies. Reporting of dispositions is spotty.
		f. *Tabular* "Monthly Crime & Arrest Report" submitted to Department of Justice under the requirements of Chap. 788, Statutes of 1929.	Annual recapitulation, by offense and by jurisdictions. (Actual)	"Bureau."	Since 1930 this series has been too incomplete to be representative. Sources "d, e & e" are preferable for this information.
2. At lower court level	6. Municipal Court filings and dispositions—criminal proceedings.	g. *Tabular* monthly report by courts to Judicial Council under the requirements of Sec. 727, Political Code.	Annual recapitulation, by court. (Actual)	Judicial Council	This series pertains only to the volume of filings in the categories of "preliminary hearings," "traffic" and "liquor and other misdemeanors."
	7. Class "A" Justice" courts—criminal proceedings.	h. Ditto	Ditto	Ditto	Ditto.
	8. Felony cases filed and disposed of.	i. *Tabular* "District Attorney's Monthly Report" to Department of Justice under the requirements of Chap. 788, Statutes of 1929.	Incidental part of annual recapitulation relates to cases disposed of by plea of guilty to misdemeanor and dismissals, some of which *may* occur in the lower courts. (Actual)	"Bureau."	See comment below—"At Superior Court Level." Source material "f".
3. At Superior Court level—Adult	9. Superior Court filings	j. Monthly *tabular* report by courts to Judicial Council under the requirements of Sec. 727, Political Code.	Annual recapitulation by county. (Actual)	Judicial Council	These series pertain only to the volume of cases in Superior Courts. Criminal cases are just one category and are not segregated even to the extent of felony and misdemeanor.
	10. Superior Court dispositions	Ditto	Ditto	Ditto	Ditto
	8. Felony cases filed and disposed of.	Included in "i"	Annual recapitulation by county and by offense, showing procedural dispositions of subjects filed on. Does not show judgment. (Actual)	"Bureau."	Since 1930 this series has been incomplete, due to imperfect reporting.
	11. Procedural outcome and judgment in Superior Court cases.	k. *Individual* "Felony Case Record" submitted by district attorneys to the "Bureau."	Periodic recapitulation by offense, by jurisdiction, showing significant facts of procedure, procedural outcome and judgment. (Actual)	"Bureau."	A "pilot model" is now being operated in cooperation with the District Attorney at San Francisco, who uses the case card as his own administrative record and forwards at the end of the month following conclusion of the case.

PROGRESS CHART—Continued

CRIME AND CRIMINAL STATISTICS IN CALIFORNIA RELATING TO FELONIES

March, 1948

Objective	Series or Field	Source Material (Actual or Potential)	Processing Agency	Product (Actual or Potential)	Status
3. At Superior Court level.—Adult (Continued)	12. Felony prosecutions and judgments in Superior Court cases.	1. Biennial *tabular* report submitted by District Attorneys to Attorney General, under the requirements of Article V, Sec. 21, Constitution of California.	Attorney General's Office.	Biennial recapitulation by county, showing cases filed in Superior Courts, the manner of their disposition and the judgments rendered, both in broad categories.	Study of the completed tabulation leads to the conclusion that this reporting is not uniform among the counties.
—Juvenile	13. Case load of Juvenile Courts.	m. Monthly *tabular* report submitted by county probation officers to Youth Authority under the requirements of Sec. 644, W & I Code.	"Bureau."	Periodic recapitulation by county, showing dispositions and load level. (Actual)	Coverage is good but data considered to be of doubtful continuity and reliability.
	14. Money collected in Juvenile Court cases.	Included in "m."	"Bureau."	Periodic recapitulation by county, showing total collections only. (Actual)	Ditto
		Note: Other data are contained in form "m", relating to offenses, ages, nativity and race, and parental status.	"Bureau."	Not tabulated.	Same status as next above.
	15. Referrals to Juvenile Probation Departments.	n. *Individual* "Probation Officers Statistical Report—Juvenile" submitted on each referral by County Probation Officer to Youth Authority under the requirements of Sec. 1752.7, W & I Code.	"Bureau."	Periodic tabulation showing movement, characteristics and dispositions made of persons referred to Juvenile Court. (Actual and Potential)	"Pilot Model" now being operated by probation officers in 18 counties covering 61% of State population exclusive of L.A. County, under cooperative arrangement whereby the Bureau supplies listings, tabulations and analyses of value to respective contributing agency. Expansion is contemplated, a few counties at a time, until complete coverage is obtained.
D. Nature of treatment or punishment.—Adult	16. Persons placed on probation from Superior Court and conditions of probation.	o. Monthly *tabular* report submitted by county probation officers to Youth Authority under the requirements of Sec. 644, W & I Code.	"Bureau."	Periodic recapitulation showing, by county, the additions to discharges from and volume of probation case load.	Coverage is good, but data considered to be of doubtful continuity and reliability.
	17. Persons placed on suspended sentence as a result of reduction to misdemeanor after felony complaint.	No data.			
	18. Persons sentenced to county jails or camps to serve time or as a condition of probation; as to numbers, terms and release procedures.	No data.			The "Bureau" is undertaking a "spot check" on selected jails for limited periods, to establish more definitely the place of jails in the over-all picture.
	19. Persons paroled from local jails, as to numbers, terms and procedures.	No data.			
	20. Persons committed to Department of Corrections as to county of origin, place of incarceration, offenses, sentences set, terms served and release procedures.	p. Daily movement sheets of all Department of Corrections' institutions: q. Minutes of Adult Authority.	"Bureau."	Periodical reports showing committing county, offense, time served and method of release. (Actual)	The "Bureau" operates the central control record of the Department of Corrections by means of a chrono-index card and a series of IBM punch cards for admissions, resident load and releases. Periodical reports and special analyses are made on IBM equipment. This phase is in satisfactory condition.
	21. Persons paroled by Adult Authority, as to offenses, parole district assignment, sentences, terms and manner of termination.	r. Transfer sheets of Parole Bureau: p. Minutes of Adult Authority.	"Bureau."	Periodical reports showing admissions to parole, distribution by parole district, terminations of parole (with reasons therefor.) (Actual)	Part of the "Bureau" routine on behalf of the Department of Corrections. IBM cards are maintained for entrances, parole load, discharges and potential discharge date.
	22. Persons committed to the Youth Authority as to county of origin, acceptance or rejection, placement (including institutional movement, placement or parole), manner of termination and offense.	s. Minutes of Youth Authority. t. Daily movement sheets of all Youth Authority institutions.	"Bureau."	Periodical reports showing committing county, offense, acceptance or rejection, residence, type of placement or parole. (Actual)	The "Bureau" operates the central control record of the Youth Authority, by means of a chrono-index card and a series of IBM punch-cards, for acceptance, resident load, parole load, placement load and releases. Periodical reports and special analyses are made on IBM equipment. This phase is in satisfactory condition.
E. Characteristics of offenders.	3. Felony arrests.	u. Notices of prior record or non-ident issued by DCI & I upon fingerprints received.	"Bureau."	Periodical tabulations relating to place of arrest, offense, sex, age, race and nativity. (Potential)	See comment on series 3.
	4. Juvenile arrests.				
	5. Persons disposed of at police level.	No data.			
	6, 7, 8. Persons disposed of at lower court level.	No data.			
	9, 10, 11, 12. Persons disposed of at Superior Court level.	No data.			
	13. Persons in case load of Juvenile Courts.	See source material "m".	"Bureau."	Not tabulated.	See comment applied to series 13.
	15. Referrals to Juvenile Probation Departments.	See source material "n."	"Bureau."	Periodic tabulations relating to sex, race, age and social factors of persons referred to Juvenile Courts.	See comment applied to series 15.
	16. Persons placed on probation from Superior Court.	No data.			
	17. Persons placed on suspended sentence after misdemeanor judgment.	No data.			
	18. Persons sentenced to jail.	No data.			
	20, 21. Persons committed to Adult Authority.	v. Admission summaries from Guidance Center (reception center for male convicts.)	"Bureau."	Periodical tabulations relating to race, age, intelligence and other characteristics at time of admission or as cross-section of resident population at a given time. (Actual)	Part of the Bureau routine on behalf of the Department of Corrections. See comment opposite series 21, above.
	23. Returned parole violators (Special case of series 20.)	w. Individual special reports after clinical study of returned parolees at Folsom Prison.	"Bureau."	Periodical tabulations related to sociological and psychological characteristics of parole violators. (Actual and Potential)	New undertaking on behalf of the Department of Corrections. Is still in developmental stage, but shows much promise.
	22. Persons committed to the Youth Authority.	x. Individual case record sheets from Youth thority facilities.	"Bureau."	Periodical tabulations relating to race, age and sociological factors of admissions to, residents of and parolees from Youth Authority facilities. (Actual)	See comment opposite series 23, above.
	24. Psychological characteristics of persons committed to Youth Authority. (Special case of series 22.)	y. Individual psychological test record sheets from Youth Authority facilities having psychological clinics.	"Bureau."	Correlations of test scores and sociological and historical factors affecting wards. (Actual)	New undertaking on behalf of Youth Authority, Present tabulations are made available only to Youth Authority psychologists. Still in developmental stage.
F. Prior or subsequent records of offenders.	25. Recidivism.	z. Identification notices issued by DCI & I.	"Bureau."	Periodical tabulations showing the criminal histories of persons involved at any level of procedure. (Potential)	Collection of these data awaiting development of the DCI & I to a point where identification letters cover arrests reported on "Additions to Record" as well as on fingerprints. They will be increasingly useful as the DCI & I becomes able to do a more complete job on the posting of final dispositions to individual records.

Prepared in the Bureau of Statistics—State Department of Justice "Bureau," as part of a report to the Crime Study Commissions on Adult Corrections and Release Procedures and on Social and Economic Causes of Crime.

April 8, 1948

Part V

REPORT D

Crime Reporting in California

by

WALTER L. TREADWAY, M.D., Member

Commission on Social and Economic Causes
of Crime and Delinquency

October 10, 1948

THE WHY

Much has been written and, perhaps, much more has been said, about the occurrence of juvenile and adult offenses against the laws of California. These data involving or embracing reports of crime have lead to the generalization that crime constitutes a kind of "social sickness" having endemic proportions, or, that crime is through and upon the people.

These generalizations, about the ocurrence and incidence of crime among the people of California, have stimulated a desire, an urge, and a determination to perform a public duty through the medium of study and investigation as to the nature of crime; its causes; where, when and under what condition it actually occurs; the best means for ameliorating or remedying the crime situation; and the application of measures for its prevention.

The time has long since arrived for the necessity of undertaking more complete and detailed reporting of crime, so that more specific, accurate and definite conclusions may be drawn from current studies of the mass phenomena of this form of social sickness.

THE SCOPE

The scope of information embraced in crime reporting or registration must be accurate, uniform and more complete. Data thus obtained should be interpreted and evaluated by currently assembling the mass phenomena of the integrated experiences and observations of those specifically concerned with various facets of the crime problem. Such an approach will serve to throw greater light upon a better understanding of the crime problem as a whole and also, in a specific sense, serve to promote an appreciation of the value of measures and means employed for its control, treatment and prevention.

THE HOW

In the past, statistical data on the mass phenomena of crime have suffered in reputation by the trite statement that "one can prove anything by figures." Actually, however, figures are but evidences upon which conclusions may be based. If the evidence is faulty or incomplete, or the faults are unrecognized, then errors in conclusions may result. But this is true of all evidence upon which opinions are based.

Crime statistics are made possible from the systematic collection and numerical classification of observations relating to certain facts and to data relating to a relatively large class of events. One of the essential steps in the process of compiling statistics is the uniform, accurate, and complete recording of observations, and the numerical compilation of their frequency or certain of their attributes. Thus statistics are no more than a numerical classification or analysis of recorded events and depend primarily for their usefulness upon the completeness, accuracy, and uniformity of the original record of facts, and secondarily, upon the accuracy of categorical classification or statistical classification and compilation.

THE CAUSE AND EFFECT RELATIONSHIP

Obviously in approaching a study and an evaluation of the social and economic causes of crime, it is essential that reporting or registration data embrace accurate and uniform observation of facts and events as to *where, when,* and *under what conditions* individual crime occurs.

It is essential also that statistical studies be extended to embrace recorded facts and events relating to the fundamental constitutional nature of individuals committing offenses against the law, so that more accurate predictions than that now obtainable, may be made possible with respect to the future criminal conduct of a given individual, and the best kind of treatment formulated for the prevention of future criminal behavior.

Such studies involve the categorical classification of offenders in terms of those showing similarities both with respect to their personal traits of character and with their social conduct and social outcome involving the personal historical events of criminal actions.

Recent trends in the understanding of human behavior have been directed, in part, toward the role played by circumstances and manner with which cultural standards, contradictory in many respects, are imposed, exacted or demanded during the growing and developmental stage of life. There are good grounds for supposing that the individual evaluations and interpretations of these circumstances and experiences are in large part responsible for everyone's "oughtness" in thought, in feelings, beliefs and behavior. This "oughtness" by which one regulates one's life tends to dominate intention and character. When the latter is socially acceptable it involves such characteristics exemplified as morality, conscience, ethics, aesthetics and the spiritual aspirations of man, that sunders him in striking fashion, from the lower forms of animal life.

These socially acceptable abstract qualities of "oughtness" in conduct, intuition, and feeling automatically enables a person to submerge and sublimate immediate desires for the realization of those having greater social significance. In these respects the "oughtness" of life has been man's friend. Thus the good and the true, the just and the considerate, and the ability to enjoy and appreciate the beautiful things in life, as attributes of character, are the end result of a cause and effect relationship.

On the other hand, this feeling and belief of the "oughtness" of things sometimes clashes violently or in varying degree with cherished hopes, wishes, and desires, and thence becomes a veritable scold and with it an overscrupulousness in thought and action which interferes with the natural and comfortable feeling of being fully at home in the world. These attributes are likewise the end result of a cause and effect relationship.

In some instances this "oughtness" of life assumes a darker aspect due to a misevaluation and misinterpretation of the events and circumstances of past experience, such misevaluation and misinterpretations form the basis of "self-evident truths" which eventually become the abstract principles that govern intention and character and justify adverse feelings and actions detrimental to the common weal and human welfare.

Since time immemorial organized society has dealt with human characters whose adverse actions constitute criminal behavior. Its action has assumed a wide variety of ways ranging from ridicule and social ostracism to banishment or death. The vindictive attitude toward these nonconformists in behavior has flavored society's actions.

The time has come, however, when a sufficient body of evidence warrants the belief, that man's individual and personal evaluations and interpretations of what the world and its people did to him yesterday and the days before, are the molding factors in the development of those abstract guiding principles by which one expresses his life in action.

The specificity of these molding factors, in terms of their exactness, in a cause and effect relationship, are worthy of more intensive study and investigation with special reference to those chaotic attributes of human character whereby beauty is abjured for ugliness, truth for untruth, and justice for injustice. In short there is need for a better understanding of the manner of men who are wicked and bad, who are immoral and degraded, or who are delinquent and criminal. An individual study of them as a person together with a statistical analysis of their specific traits of character in relation to their historical outcome of crime, will be of help in predicting and in formulating remedies for the amelioration of the crime problem. Furthermore, the mandatory requirement of reporting or registering crime uniformly, accurately and completely as to where, when and under what conditions individual crime occurs, with a current statistical analysis of such data by an appropriate official agency, will do such in furthering specific knowledge as to the social and economic causes of crime and delinquency in California.

RECOMMENDATIONS

Ample legislative and executive authority should be granted for carrying these proposed special studies into effect, together with such means for the expansion of the duties required for rendering them effective and for the current assembly of the mass phenomena of the integrated experiences and observations of those specifically concerned with various aspects of the crime problem.

Appendix

EXECUTIVE ORDER OF THE GOVERNOR

(Pursuant to Chapter 1181, Section 6028, Statute Laws of 1947)

November 1, 1947

By virtue of the authority vested in me by Chapter 1181 of the Statute Laws of 1947, I hereby create a special commission of five members, to be known as "The Special Crime Study Commission on Social and Economic Causes of Crime and Delinquency," to assist the Board of Corrections in the study of crime pursuant to Section 6027 of the Penal Code.

This commission is authorized and instructed to make inquiries into any social or economic condition in the State which appears to be or is contributing to crime and delinquency, either directly or indirectly. Because of the broad scope of this subject, it is suggested that the commission: (a) make a general inquiry into social and economic causes of crime and delinquency in California, and (b) restrict its intensive studies to the more acute social and economic conditions productive of crime and delinquency. It is further suggested, in this connection, that particular attention be given to those conditions with respect to which there is the greatest promise of effecting substantial improvement and amelioration.

Said commission is authorized to make partial and interim reports on such subjects within the general scope of its study and at such times as are deemed appropriate by said commission.

Said commission shall render its final report and recommendations to the Director of Corrections not later than July 1, 1949, and in the manner provided by Section 6028.3 of the Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this first day of November, A.D. 1947.

(Signed) EARL WARREN
Governor of California

ATTEST:

(Signed) FRANK M. JORDAN
Secretary of State

MEMBERSHIP—THE SPECIAL CRIME STUDY COMMISSIONS

Section 6028 Penal Code: Upon request of the Board of Corrections or upon his own initiative, the Governor from time to time may create by executive order one or more special commissions to assist the Board of Corrections in the study of crime pursuant to Section 6027 * * *.

COMMISSION FOR THE STUDY OF SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY

Arlien Johnson, Ph.D., Chairman
Dean, Graduate School of Social Work, University of Southern California
Past President, National Conference of Social Work

Floyd C. Covington
Executive Director, Urban League of California

Knowles A. Ryerson
Dean, School of Agriculture, University of California at Davis

Walter L. Treadway, M.D.
Medical Director, United States Public Health Service (retired)

THE STATE BOARD OF CORRECTIONS

Section 6027 Penal Code: It shall be the duty of the Board of Corrections to make a study of the entire subject of crime, with particular reference to conditions in the State of California, including causes of crime, possible methods of prevention of crime, methods of detection of crime, and apprehension of criminals, methods of prosecution of persons accused of crime, the entire subject of penology * * *.

Mr. Richard A. McGee, Chairman
Director, State Department of Corrections

Mr. Walter A. Gordon, Vice Chairman
Chairman, Adult Authority

Mr. O. H. Close
Member, Youth Authority

Mr. Charles W. Dullea
Member, Adult Authority

Mr. Karl Holton
Director, Youth Authority

Mrs. Anne Humphreys
Chairman, Board of Trustees for the California Institution for Women

Mr. Gerald C. Kepple
Member, Youth Authority

Mrs. Helen Legg
Member, Board of Trustees for the California Institution for Women

Mr. Ervis W. Lester
Member, Adult Authority

Judge Isaac Pacht
President, State Board of Prison Directors

LIAISON REPRESENTATIVES OF THE STATE BOARD OF CORRECTIONS TO THE SPECIAL CRIME STUDY COMMISSIONS

Judge Isaac Pacht—Commission on Criminal Law and Procedure

Walter A. Gordon
Commission on Adult Corrections and Release Procedures

Karl Holton—Commission on Juvenile Justice

Ervis W. Lester—Commission on Social and Economic Causes of Crime and Delinquency

Charles W. Dullea—Commission on Organized Crime

CALENDAR OF MEETINGS
of the
COMMISSION ON SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY
November 1, 1947-January 3, 1949

November 17 and 18, 1947	Sacramento
December 19, 1947	Los Angeles
February 17 and 18, 1948	Sacramento
March 18, 1948	Santa Barbara
May 4 and 5, 1948	Los Angeles
July 13, 1948	Sacramento
August 13, 1948	Berkeley
August 14, 1948	San Quentin
September 11, 1948	Sacramento
October 7 and 8, 1948	Riverside
October 29, 1948	Santa Monica
November 18, 1948	Sacramento
November 30, 1948	Los Angeles
December 9 and 10, 1948	Fresno
February 16, 1949	Bakersfield
April 25, 1949	Santa Barbara
May 6, 1949	Sacramento

THE SPECIAL CRIME STUDY COMMISSIONS STAFF

Administrative

Richard A. McGee—Director, State Department of Corrections
Frank E. Cane—Executive Officer, State Board of Corrections
Walter Dunbar
Assistant to Executive Officer, Field Representative, State Board of Corrections

Ronald H. Beattie
Statistical Consultant, Department of Corrections

Ann C. Welch—Assistant Socio-Economic Research Technician

Field Staff

COMMISSION FOR THE STUDY OF CRIMINAL LAW AND PROCEDURE

Elery E. Cuff—Administrative Adviser (10-15-48 to 2-15-49)
John H. Paine
Assistant to Administrative Adviser (2-1-49 to date)

COMMISSION FOR THE STUDY OF ADULT CORRECTIONS AND RELEASE PROCEDURES

Malcolm E. Harris
Field Representative, Department of Corrections
Virgil J. O'Malley
Field Representative, Department of Corrections (1-1-48 to 1-15-49)

COMMISSION FOR THE STUDY OF JUVENILE JUSTICE

Ray N. Studt—Field Representative, California Youth Authority
Barbara L. Steiner—Research Assistant (10-10-48 to 1-17-49)

COMMISSION FOR THE STUDY OF SOCIAL AND ECONOMIC CAUSES OF CRIME AND DELINQUENCY

Isaiah J. Shain—Senior Sociologist
Cletus J. Fitzharris
Field Representative, Department of Corrections (1-27-48 to 7-1-48

COMMISSION FOR THE STUDY OF ORGANIZED CRIME

Warren Olney, III—Counsel
John H. Hanson—Chief Investigator (11-5-47 to 11-30-48)
H. G. Robinson—Chief Investigator (12-1-48 to date)
Virgil J. Wolfe—Investigator
Thomas P. Judge—Investigator
Edward L. Cochran—Investigator (7-1-48 to 1-31-49)
Herbert Van Brundt—Investigator (2-1-49 to date)

9665 6-49 3M